

Amanda Forrister
Mayor

Rolf Hechler
Mayor Pro-Tem

Merry Jo Fahl
Commissioner



Destiny Mitchell
Commissioner

Shelly Harrelson
Commissioner

Bruce Swingle
City Manager

505 Sims St.
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REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON WEDNESDAY, OCTOBER 26, 2022; TO START IMMEDIATELY FOLLOWING THE CITY COMMISSION GEOTHERMAL WORKSHOP.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

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

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

C. PRESENTATIONS

1. Presentation of City of Truth or Consequences Employee Service Anniversary Awards. City Manager Swingle and Department Supervisors

D. PUBLIC COMMENT (3 Minute Rule Applies)

E. REPORTS

1. City Manager
2. City Attorney
3. City Commission

F. CONSENT CALENDAR

1. City Commission Regular Minutes, October 12, 2022
2. Acknowledge Regular Public Utility Advisory Board Minutes, September 19, 2022
3. Subrecipient FY 22/23 1st Quarter Reports
4. Take Home Vehicle Forms

G. PUBLIC HEARINGS (5 Minute Rule Applies)

1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 741 to amend Article VIII, Section 7-202 of the City Code of Ordinances, pertaining to the Collection of Lodgers Tax and Reporting Procedures. City Manager Swingle

H. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Resolution No. 15 22/23 Budget Adjustment Request. City Manager Swingle

I. NEW BUSINESS

1. Discussion/Action: Final Adoption of Ordinance No. 735 Amending Section 14-48 pertaining to the Customer Generated Renewable Energy Program. City Manager Swingle
2. Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager
3. Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager
4. Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. Traci Alvarez, Assistant City Manager
5. Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194. Traci Alvarez, Assistant City Manager
6. Discussion/Action: Approval of extension to the Franchise Agreement between the City of T or C and TDS. Traci Alvarez, Assistant City Manager
7. Discussion/Action: Approve recommendation from the Recreation Advisory Board to remove the BMX sign and track. OJ Hechler, Director of Community Services
8. Discussion/Action: Review, Approve, and/or Allocate Funds for the Sierra County 4-H/Extension Lodger's Tax Application. City Manager Swingle
9. Discussion/Action: Approval of the 2023 City Holiday Schedule Memo. City Manager Swingle

J. EXECUTIVE SESSION

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

K. ADJOURNMENT

The meeting will be broadcast live through KCHS on 101.9 FM.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting please contact the City Clerk's Office, at 505 Sims Street, Truth or Consequences, New Mexico 87901, phone (575) 894-6673 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the City Clerk's Office if a summary or other type of accessible format is needed.

NEXT REGULAR CITY COMMISSION MEETING NOVEMBER 16, 2022



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: C.1

SUBJECT: Presentation of Service Anniversary Awards.
DEPARTMENT: Finance
DATE SUBMITTED: October 21, 2022
SUBMITTED BY: Alona Niebergall
WHO WILL PRESENT THE ITEM: City Manager Swingle and department supervisor

Summary/Background:

Employee Anniversary: Sorg, Joe – 2 YEARS
Employee Anniversary: Huron, Scott – 12 YEARS

Recommendation:

None. Presentation Only.

Attachments:

None.

Fiscal Impact (Finance): No

Legal Review (City Attorney): No

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. . Ordinance No. .

Continued To: . Referred To: .

☐ Approved ☐ Denied ☐ Other: [Click here to enter text.](#)

File Name: CC Agendas 10-26-2022



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: F.1

SUBJECT: City Commission Regular Minutes, October 12, 2022
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: October 21, 2022
SUBMITTED BY: Angela A. Torres, Clerk-Treasurer
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Minutes approval.

Recommendation:

Approve the minutes.

Attachments:

- CC Minutes

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

None.

Approved For Submittal By: ☐ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, OCTOBER 12, 2022

A. CALL TO ORDER:

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

B. INTRODUCTION:

1. ROLL CALL:

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

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

Also Present: Bruce Swingle, City Manager
Angela A. Torres, City Clerk-Treasurer

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

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

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Hechler moved to approve the agenda as submitted. Commissioner Harrelson 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 Swingle presented an Employee Service Anniversary Award to Mindee Holguin for 2 years of service with the City of Truth or Consequences.

City Manager Swingle presented an Employee Service Anniversary Award to Robert Waldron Robert for 12 years of service with the City of Truth or Consequences.

City Manager Swingle and Pete English, Water/Wastewater Director presented an Employee Service Anniversary Award to Leonides Martinez for 25 years of service with the City of Truth or Consequences.

City Manager Swingle and Dave Johnson, Facility Management Director presented an Employee Service Anniversary Award to John Daley for 1 year of service with the City of Truth or Consequences.

D. PUBLIC COMMENT (3 Minute Rule Applies):

There were comments from the public.

E. REPORTS:

City Manager Swingle reported the following:

- He gave kudos to the employees. We had an emergency outside of the Utility Office last week, and we received nice comments from the family that the staff stayed with the individual that was having the emergency. They were basically holding hands with the individual until the ambulance arrived, and the family was appreciative and wanted to communicate that to the City. Every week there is outstanding work being done. I couldn't be prouder of all of our employees. They just do great work.
- On a less positive note, water leaks and infrastructure issues continue. I thank the community for being understanding of the predicament that the City is in, and the age of the infrastructure. We are working on funding, and securing a lot of funding. There is a lot of funding that is in the works, and there is future funding that we have to go out and identify. We are doing that as fast as we can under the present economic climate and structure that we have to work with.
- The infrastructure bond issue is on the ballot. Early voting started yesterday. The Chamber of Commerce is working diligently to get information out on the bond issue for the increase in property tax for water, streets, and wastewater. That will only be on the city resident's ballot. It will be titled Municipal Bond Issue for water, streets, and wastewater.

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- The hospital mill levy is on the ballot as well, and I think that is important to this community. It has been an important funding source for the hospital. It has been a very steady stream of revenue.
- We had a meeting last week with Senator Lujan's Liaison for our region. The Mayor was in attendance and they had a good discussion about the congressional issues, and some local issues we communicated to their office. It was a positive meeting for the hour that we had with the individual.
- The Court Committee will meet next week on the 17th to continue the process of evaluating the courts, and the potential of designating the Magistrate Court for city codes.
- We've been involved in the engagement of Chief of Police, and we conducted interviews last week with a number of candidates. We are looking at setting up interviews for a couple of those applicants, and we've invited our former Chief of Police to participate and the Deputy District Attorney Virginia Hicks to also serve on the committee.
- We have the meeting with the Office of the State Engineer to come at our next meeting and have a workshop. I would recommend that we have them show up at 9:00 a.m. and the meeting will immediately follow the workshop. I think the thing that was obvious to me in my communications with their office was that they did not put a lot of emphases on the geothermal water and geothermal wells, and I think that will probably come across pretty clearly when we have the discussion in two weeks.
- We've had some issues with the Lee Belle Johnson facility. There is some flooring that is bubbling and it looks like it is a real infrastructure problem, and structural issue with the building. I don't know much more than that about it, but we are bringing in an engineer to take a look at it, and see what is causing the problem, and what we can do to resolve the problem if anything.
- We have a new vacancy on the Public Utility Advisory Board. Ron Pacourek resigned from the board. We have one vacancy on the Airport Advisory Board. We have many vacancies on the Golf Course Advisory Board, although we are looking at consolidating the Golf Course Board and Recreation Advisory Board. We also have two vacancies on the Impact Fee Advisory Board, and we have one vacancy on the Planning & Zoning Commission.

City Attorney Rubin reported had no reports.

City Commission Reports:

Commissioner Harrelson reported the following:

- We had a fantastic fair last week. We had a lot of community support. The kids worked hard, and their parents were there. I really appreciate all of the community support and sales so we can give back to our kids and our community and support all of the kids that worked so hard this year.

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Mayor Pro-Tem Hechler reported the following:

- Sidekixx had their grand opening last Friday. Commissioner Fahl, Commissioner Mitchell and I were able to attend. I am excited for the Masterson's. They have done a wonderful job with the T or C Brewery, and I am expecting this to spill over to Sidekixx and they do a masterful job there as well. They retained most of the employees there, and I am looking forward to them opening up the bowling alley portion later on this year. It should be another great place for us to visit.

Mayor Forrister reported the following:

- We had \$100,000 of add on money from community members that gave money here and there. I want to make sure that our community knows that even though you may not want to acquire an animal and spend \$4,000 - \$6,000 on an animal you can still support that community by adding on to anybody's animals, whether it be \$50 or \$500. It was a really good event and it shows the heart and soul of our community.
- We understand that there is going to be 30 plus new water leaks a week and I know how frustrating it can be because I had some sewage issues at my house so I understand the people's frustration when things don't get fixed right away, but that is not always feasible. The City is trying their best and I want to commend Pete for getting out there and getting the sewer issue on 3rd fixed.
- The meeting with the representative from Senator Lujan's office was very interesting. It was nice to just sit down and listen to what they are doing to help, and get some ideas of what we can maybe do to push them to help us in the direction of fixing some of these big issues that we have. It is very frustrating when we have so many large issues and not enough money to cover them so we have to reach out to other places for funding.
- Our volleyball team is rocking and rolling. We are 14 and 1. We have one more game before we go into district, and we will be hosting districting here so I would really appreciate anybody who would like to come out and support them. Friday night is Homecoming for our football team, and we will have a parade through town on Friday. We are also ranked #3 in that State. We keep going in between #2 and #3 in the State of New Mexico so that is very cool. I am very proud.

F. CONSENT CALENDAR:

1. City Commission Regular Minutes, September 28, 2022
2. Acknowledge Regular Airport Advisory Board Minutes, July 5, 2022
3. Acknowledge Special Airport Advisory Board Minutes, August 23, 2022
4. September 2022 Accounts Payable

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

G. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Discussion/Action: Resolution No. 13 22/23 for the Sale of Surplus Property to be sold at the November 5, 2022 Auction through Willard Hall Auctions:**

City Clerk Torres: Willard Hall will be having an auction on November 5, 2022 at the Sierra County Fairgrounds. We only have one item to sell in this auction, and it is a John Deere Backhoe from the Parks Department.

Mayor Pro-Tem moved to approve Resolution No. 13 22/23 for the Sale of Surplus Property to be sold at the November 5, 2022 Auction through Willard Hall Auctions. Commission Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 2. Discussion/Action: Resolution No. 14 22/23 to adopt a City Debit/Credit Card Policy:**

City Manager Swingle: What you have before you is a credit card policy that the State is requiring all local governments to develop. It basically mirrors their template that they sent out to all of us. It addresses debit cards, credit cards, or electronic transfers. The only addition to this policy that has been identified is on page 5, D1 (a). There was a word that was excluded in the first sentence. It says "*the City of Truth or Consequences will take all payments with technical assistance, and equipment*." The word "*and*" needs to be added to the policy. Otherwise, it is a mirror of the State's template that they asked us to adopt.

Mayor Pro-Tem Hechler moved to approve Resolution No. 14 22/23 to adopt a City Debit/Credit Card Policy with the amendment noted by City Manager Swingle. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. PUBLIC HEARING:

- 1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 735 Amending Section 14-18 pertaining to the Customer Generated Renewable Energy Program:**

City Manager Swingle: We have seen this item multiple times on the agenda. Unfortunately, Public Utility Advisory Board Chairman George Szigeti was not here to represent the board. What you have here is an ordinance that they generated. At the last meeting that this was discussed, City Attorney John Appel wanted to insert one more section into this ordinance which we have done. This has had legal review with the additional modifications. The Public Utility Advisory Board have no changes. The change that was mentioned is on page 4, section f of the ordinance that reads "*The City*

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reserves the right to reduce or terminate its acceptance of electricity generated by customers in the event that the total amount of electricity generated and offered at any given time exceeds the amount that can be put to use." Meaning, if we can't use it then there is a chance that we will not be purchasing it. Other than that, it is the same document that the Commission has seen on multiple occasions. This does call for the actual clearing of accounts at the end of the calendar year. There was some discussion that we should change it from January to possibly February, March, or maybe even April because there is a lot going on in January. There are also winter months where individuals are not generating at peak capacity.

Mayor Forrister opened the public hearing.

Opponents:

Ariel Dougherty: *Complete testimony attached hereto and made a part hereof.*

Ron Fenn: This is a very problematic ordinance for any number of reasons. Some of which were stated by Ms. Dougherty. This does not repeal ordinance #664 under which 80 something customers have solar created. We've spent our money, and we've invested our money under that ordinance. It is not repealed or replaced. This is just another ordinance that will only affect the people who come in today or after you approve this. It is kind of meaningless. It will actually discourage people from putting in solar if they can understand this ordinance at all. Some of the things that are wrong with this ordinance is in the very beginning it states that this is amending Section 14-48, but there is no Section 14-48. Under the Municipal Code it is listed as reserved. It has nothing to do with solar or anything else so that is false information that has been put into this. It is a reserved number. You can write any kind of ordinance that you want, but it has to be a new ordinance, not an amendment. If you amend something in total, you are creating something new. It's not amending. The provisions listed in the overview are curiously in two places. They reference state law, Rule 17.9.568 NMAC. Why are we dealing with a piece of a state law when we ignore all of state law as it relates to utilities? We do not follow the state laws that are meant to protect the people. That is a big legal problem. In the metering it describes this as in 664 by directional net metering. It is meaningless because we don't have net meters. We have co-generation meters which are for companies and entities that are trying to sell electricity to the city. We produce kilowatts. We don't produce money. The monetization of this whole process is false to begin with. Nobody is in this to make money, but people do want to recover the vast investment that they have in their properties to do this, and this ordinance will negate that for the people who come in now. It is meaningless of how it has been allowed by the Public Utility Advisory Board who does not understand any of this. In fact, there is nobody in the billing department or utility department that understands net metering and solar, and yet they write this kind of nonsense, and out it for you to sign off on it. None of you had anything with writing this ordinance so please ignore it because if you don't ignore it chances are that there will be a petition for referendum on this issue. The numbers are also totally meaningless. Even Ariel gave you a number of some hundreds of thousands of kilowatt hours. I did the analysis of the actual credit that was due on January 1st of this year and

Mayor and Commissioners I salute you in the key effort with 735 to recognize and comply with Municipalities Article 18, Section 3-18-32 that states municipalities can not restrict solar installation. Future electrical use – such as an electric vehicle – was not possible in the prior ordinance. I appreciate the effort of the PUAB and the Commission to make these changes. However, too much in Ordinance 735 needs clarity and a fuller understanding of renewable functions and its credit process. Hence, I urge you not move forward without these additional changes.

Foremost two standard industry terms – NET METERING and AVOIDED COSTS – appear nowhere in the document. They should. Their inclusion would underline the benefits renewables bring to the City. Producers' over production fed into the City grid approximately 245,000 kWh in 2021. This saved the City about \$16,500 it did not have to purchase elsewhere. This averaged as a \$27.50 contribution to the City by each producer every month. More producers will increase this contribution. Billing is over-emphasized throughout the document. The City should instead create a new code line for renewable meter readings. PLUS, keep the readings month by month in kWh. This demands no additional staff time and paper/mailing expense of a 2nd bill.

Specifically: **FIRST:** Producers install renewables at considerable personal expense to reduce their carbon footprint. PLEASE strike under 2) **Applicability:** *“with the intent of reducing their electric bill.”* **SECOND:** Number 3) should be “NET METERING” followed by a description. I have one in an addendum, if you choose to discuss this further. Instead, now this section focuses on billing and misconstrues the purpose of Net Metering. **THIRD: 4) Rates (Residential) ii.** The phrase *“billed for service in accordance with rate structure”* needs Commissioners' awareness of the function of the \$8 monthly charge under *“availability of service”*, as delineated in City Code 14-45 (d) 2.

FOURTH : v. There is no reason month by month to translate the kWh into dollars and cents. With separate codes, the difference between electricity purchased from the City vs - kWh produced by

renewable customers will clearly show kWh to be charged or credits to be carried to the next month.

FIFTH: vi. An annual “settlement” of an account **should be optional** and the amount stated in kWh form. For the producers, March is a better “settlement” time. Keeping everything in kWh and making this optional, again, saves the utility office time and energy. **SIX: d.** For several reasons I urge this be dropped. One, the City already gets a monthly benefit from the daily over production of producers, as I have mentioned; Two, as there currently exists an “*availability of service*” charge of \$8 you Commissioners should state now what that covers before more charges are added to customers; and Three, postponing such a charge to a Resolution complicates how to know and where to gather all the requirements for an applicant. **SEVEN, a grandfather clause is critical.**

Please make the Ordinance clearer and more specific to the virtues of adding renewables.

3. Net Metering

Is a process via a bi-directional meter to record kWh readings from the City grid in a forward motion (+ kWh) or from the renewable producer through their renewable energy sources in a reverse or backward motion (- kWh). It enables the customer producer at peak sun/wind times to send over-production back into the City grid for locally produced electricity that the City then sells to other City consumers without transmission loss. This lowers the City's purchase of electricity from its commercial sources. Because customer producers remain tied into the City grid they can pull off that source, pushing the meter forward, when the renewable energies are not available. Accumulation of excess production is registered via a separate code as - kWh. Excess - kWh can carry over month by month and should be credited only as - kWh. In short, **over production** feeds the City's grid, **excess production**, which to date has been very limited, means the producer provides the city more over production than the City electricity they purchase.

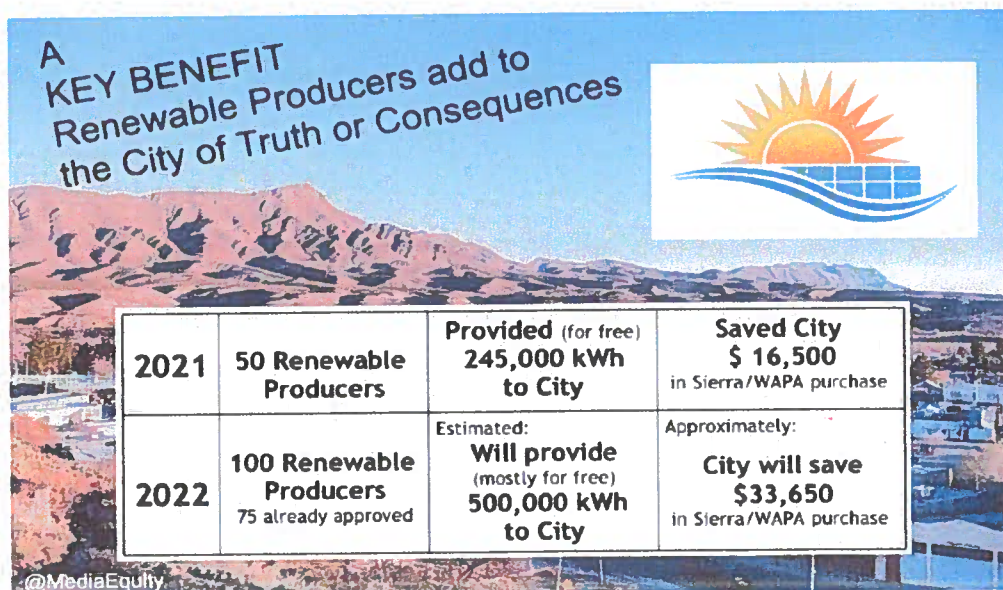
Definition of AVOIDED COSTS:

(1) avoided costs means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

Grandfather Clause:

Renewable customers approved under Ordinance 664 can continue under those contracts and if they do not add additional renewables to their systems. If they desire to add additional renewables to their system they will then be covered by this new ordinance.

[remember to strike "*in its entirety*" after "amended" under **Section 1**]



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it amounts to a total of about \$1,069. There are large number of credits that are totally bogus because there is no physical way that the facilities that these people have can create the kind of credit. It is all book keeping errors and it needs to be addressed. I hope that somebody is looking into those credits because they are bogus. It is all accounting, and it is all because we are using monetization.

Proponents:

There were no proponents.

Mayor Forrister closed the public hearing.

City Attorney Rubin: This is something that we're not rushing into. It's been on the agenda several time. We've had a good discussion back in August and there were some good legal questions that were raised and I felt more comfortable with us getting an opinion from Mr. Appel, and he wrote us a detailed letter on September 2nd which addresses the questions that were raised in the August meeting. Then we had our first meeting in September and Mr. Appel was on the line and he addressed again the questions that had come up so I don't really have anything else legally to add to that because nothing has changed except for the fact that we added the paragraph (f) on page 4. I do however want to point out on the very bottom of page 4 it does state "*All Ordinances or Resolutions, or parts thereof, in particular Ordinance 664, inconsistent herewith are hereby repealed*" therefore we are repealing Ordinance 664. I brought a copy of ordinance 664 and that references section 14-48 so I think we have the right number here.

City Manager Swingle: We all understand that this is an important ordinance, and it is really unfortunate that two of our Commissioners had prior obligations to deal with. It may be something that you want to table until you can have an entire body and have a discussion on it. That is just a suggestion. I would hate for the brunt of this ordinance to fall on three people vs the entire board.

City Attorney Rubin: I like that approach. I was thinking about that also, and I don't think that you have to have another public hearing because we've already had that so I think you can call this a recess and continuation of the discussion/action.

Mayor Pro-Tem Hechler: I agree that we should table this item until we have all of the Commission present, but I do have a concern that I would like addressed before the next meeting. If the City is able to contract energy at a reduced rate of wholesale cost cheaper than what the solar owners produce, does that means under f that the city has the right to not purchase any electricity from the solar users, basically affecting their system and putting them out of business and that is a concern. The City reserves the right to reduce or terminate its acceptance of electricity generated by customers in the event that the total amount of electricity generated and offered at any given time exceeds the amount that can be put to use. I have a fear that if the city was able to purchase a great amount of energy at wholesale cost less than the .06 cents/kWh that the solar producers produce, the city won't buy anything from the solar users and their

CITY COMMISSION OCTOBER 12, 2022 REGULAR MEETING MINUTES

systems would not be worth anything. If you could clarify that for me that would help me. If I am wrong let me know.

City Manager Swingle: I think this was language that was discussed at a prior meeting where somebody wanted it in the ordinance, and I just don't recall the exact conversation.

Mayor Forrister: John Appel wanted that added.

City Attorney Rubin: Yes ma'am. As you remember, we voted to approve the ordinance for publication subject to including the additional language.

Mayor Pro-Tem Hechler: If we do table this, I'd like to address that particular concern that I have the next time we bring this up because I think that it is a legitimate concern for the solar participants.

Mayor Forrister: I think tabling this is a good idea for the fact if we were to vote and one of us voted different it wouldn't work anyway.

Mayor Pro-Tem Hechler made a motion to table the final adoption of Ordinance No. 735 Amending Section 14-18 pertaining to the Customer Generated Renewable Energy Program until the next feasible moment or until the city can have the questions answered that we have. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

I. NEW BUSINESS:

1. Discussion/Action: Approval of the Grant Agreement between the New Mexico Department of Transportation and the City of Truth or Consequences:

Interim Chief Donald Venable: This is a request to approve the grant between the New Mexico Department of Transportation and the City of Truth or Consequences. This is the End DWI step, buckle up. What this allows the officers to do is focus on traffic enforcement instead of being called out to calls. It provides a better and safer driving environment. It focuses on seat belts and making sure everyone is wearing them as well as concentrating on DWI to make it safer for everyone.

Mayor Pro-Tem Hechler made a motion to approve the Grant Agreement between the New Mexico Department of Transportation and the City of Truth or Consequences. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

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

City Manager Swingle reviewed the Purchase Requisitions provided in the packet.

Mayor Pro-Tem Hechler made a motion to approve the Purchase Requisitions over \$20,000. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Amendment to the 2022-23 Salary Pay Schedule:

City Manager Swingle: I'm not sure how it happened. We missed it as an organization. Our water and our wastewater employees pretty much serve dual roles. A water employee works wastewater projects and wastewater employees work water projects. It is kind of all hands-on board with these functions. It was brought to our attention that our wastewater employees are listed as a classification 3 and our water employees are 4 so what we would like to do to be consistent and fair about it since they are all serving the same rolls and doing the same duties, we would like to change it to where they are both level 4's. Classification 4's and whatever step they are in, they are in. That does not change. It is a change of \$.69 per hour. We do have one other change that we are going to be recommending in the very near future for our CDL Operators. We just have to figure out how we are going to classify it. We have them in different departments and we need to figure out how we are going to compensate them. Feds have made a major change in CDL operators and the training that they have to go through. Before we can offer the training with our instructors internally, they've changed that to where we have to send them to a several month school for these employees to receive their CDL certifications. We've got to find out a way to adequately compensate them for that and make sure that it's consistent across the entire organization.

Mayor Pro-Tem Hechler made a motion to approve the amendment to the 2022-23 Salary Pay Schedule to change the wastewater employees to a number 4 as presented by City Manager Swingle. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Approval of Contract between Nick Jernigan and the City of Truth or Consequences for Water/Wastewater Field Foreman Services:

City Manager Swingle: The state requires that we have a level 2 operator onsite of every water leak or when we are turning valves, decontaminating pipes or sawing new pipes to make sure that the proper decontamination processes are being followed. The only level 2 or over operator that we have is our Water/Wastewater Director Pete English and he is a 4 by 4 certification, but it is impossible for him to be onsite of every water leak and stay there for the time frame of the water leak. If that were the case then he wouldn't really be serving in the director capacity. We have an individual in the

community that has a level 2 certification and we want to contract with him to use him on those water leaks as required on a case-by-case basis to comply with state regulations. We are trying to hire a 2 by 2 in the organization, but we don't have one at this point and it would take some time to get our employees up to that level. I think we lack the interest in ensuring that our employees are developing over time. You have to serve a year in a roll before you can test for a level 1. Then you serve additional years for each level. I think we've remised historically in not ensuring that our employees are getting their certifications, and frankly in this case we're in violation if we don't have this contract in place. The cap is \$45,000 for the position, and that is a very high estimate. We are looking at \$25 an hour onsite while we are doing water leak repairs.

Mayor Pro-Tem Hechler made a motion to approve the Contract between Nick Jernigan and the City of Truth or Consequences for Water/Wastewater Field Foreman Services. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Approval of Contract Renewal for Bartoo Sand & Gravel, Inc:

City Manager Swingle: It's time to renew our agreement renewal with Bartoo Sand & Gravel, Inc. with a revision in price to include a 17% price increase above contractor's cost for asphalt, super pave, cold mix, and ready-mix concrete for inflation. We had to do some changes with the contract at the very end of the term of the former contract because the cost that they were experiencing was going to cause them to lose money on every project that they were doing for the City. It just happened to be a Williamsburg project doing the Palo Verde are in Williamsburg. We negotiated a price that we would pay for the materials and that project was completed. The costs continue to escalate on oil-based products and contractors are giving you two week estimates and then they want to re-quote it because the cost is increasing so to avoid this issue, and be able to enter into a contract, we put in a percentage above and beyond what the contractor is paying for the materials as basically their profit margin and then minus whatever internal expenses they have. That is the only way that we can actually work into a long-term contract because it is very difficult for us to bid projects as often that we use them. So, for us to be able to plan projects out, this is the only way to do it.

Mayor Pro-Tem Hechler made a motion to approve the Contract Renewal for Bartoo Sand & Gravel, Inc. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Approval of JPA between the City of Truth or Consequences and the Village of Williamsburg for Police Services, Animal Control Services and Animal Shelter Service:

City Manager Swingle: This came to light because the State changed the amount of money, they provide each entity for law enforcement protection funds. Historically we have been getting roughly \$20,000 from Williamsburg. They would literally let us expense it and they would pay for the \$20,000 out of the Law Enforcement Protection Fund. With that in mind, we had to modify the agreement so we could expense the entire \$45,000. With that in mind, we took the opportunity to look at how much law enforcement is costing us to provide for Williamsburg. It is currently costing the city a little over \$1.9 million to provide law enforcement services community wide. That is for Truth or Consequences and Williamsburg. Typically, when you are creating the Police Department you basically identify how many residents you have and you go from there and build your budget, and the number of officers you are going to need, basically your cost. The services are costing us much more than what we are receiving. In the current JPA we agree not to purchase vehicles because all of the equipment that is purchased in the law enforcement protection funds under the current agreement revert back to the Village of Williamsburg when we are done so if this contract ended today, we would have to revert everything back to the Village of Williamsburg so that's telling me that it is really not ours so that has been extracted because now we are talking \$45,000 and the number could go up or down in subsequent years. We are talking real money where we could buy a police car. We need to have the discretion to use the money for what we feel we need to use it for and know that we are going to be able to keep it. In my conversations with the Village prior to drafting this was that they can't afford any increase at all. I explained that we can't afford it either. It's one of those of whether we should be compensated full cost of law enforcement to your community or just a portion of it, and I think the right answer is that we should be fully compensated. We are not asking for any administrative cost or time that is involved, we are just talking about the actual direct services that are being provided to the community.

City Manager Swingle did a brief review of the attached cost break down for services provided to Williamsburg.

Mayor Forrister: If you look at our tax difference, their residents are not taxed like our residents are so it is not fair to put that burden on our tax dollars when their residents are getting a break in that.

City Manager Swingle: I did discuss that with their Mayor and Clerk that it is not fair that the city has to increase their taxes to provide the services for Williamsburg, and they certainly understand that. I have not heard back from them. I think that they are going to look at other options and reach out to the Sheriff's Department to see if they can provide law enforcement services to them, and that is certainly their prerogative, but we are not out anything if they decide to go with another entity to provide law enforcement services. In the long run it is going to be cheaper on us to do that, but we will have to

CITY COMMISSION OCTOBER 12, 2022 REGULAR MEETING MINUTES

probably work something out with animal control and animal shelter services because there is just no way you can create an animal shelter for \$10,000.

Mayor Pro-Tem Hechler: So, this year's Law Enforcement Protection funds are \$45,000. Is that correct? Lenient

City Manager Swingle: That is correct.

Mayor Pro-Tem Hechler: So that will actually come out to up to \$171,000.

City Manager Swingle: Correct, and in any combination of Law Enforcement Protection fund and the cash that they would pay the city. I would also like to point out, what we want this to really look like because it is unfair to hit the Village with a high-cost mid budget in the middle of the year. It is really a matter of pass through so if they have \$45,000 coming in Law Enforcement Protection Funds. That's what we should ask for this year. With respect to the increase in cost, I would recommend that we make this affective for that fee. It actually comes in with the fiscal year. So, we keep and honor the \$10,000 that we have this year, and in July 1 it goes to the new rate.

Mayor Pro-Tem Hechler made a motion to approve the JPA between the City of Truth or Consequences and the Village of Williamsburg under the following conditions that they accept \$45,000 for Law Enforcement Protection funds this year plus the \$10,000 Services of what they've given us and that we postpone the additional increase to the next fiscal year in the amount of \$171,447.

Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Re-appointment of Jake Foerstner to the Lodgers Tax Advisory Board:

City Clerk Torres: Jake Foerstner is a current member on the Lodgers Tax Advisory Board. His term is up this year, and he wishes to remain on the board. On September 26th, the Lodgers Tax Advisory Board made a recommendation to re-appoint Mr. Foerstner to the board. If approved by the Commission, Mr. Foerstner will serve a 4-year term on the board.

Mayor Pro-Tem Hechler made a motion to re-appoint Jake Foerstner to the Lodgers Tax Advisory Board to the Lodgers Tax Advisory Board for a 4-year term. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Re-appointment of Linda DeMarino to the Lodgers Tax Advisory Board:

City Clerk Torres: Linda DeMarino is a current member on the Lodgers Tax Advisory Board. Her term is up this year, and she wishes to remain on the board. On September 26th, the Lodgers Tax Advisory Board made a recommendation to re-appoint Ms. DeMarino to the board. If approved by the Commission, Ms. Linda DeMarino will serve a 4-year term on the board.

Mayor Pro-Tem Hechler made a motion to re-appoint Linda DeMarino to the Lodgers Tax Advisory Board to the Lodgers Tax Advisory Board for a 4-year term. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Consideration of the appointment of Victoria Harrington to the Lodgers Tax Advisory Board:

City Clerk Torres: The Lodgers Tax Advisory Board has one vacancy on their board. At their September 26th meeting, the board recommended the appointment of applicant Victoria Harrington to serve as a member on their board. If approved by the Commission, she will serve a 3-year term on the board.

Mayor Pro-Tem Hechler made a motion appoint Victoria Harrington to the Lodgers Tax Advisory Board for a 3-year term. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: Consideration of the appointment of Allen Hansen Begg to the Recreation Advisory Board:

City Clerk Torres: The Recreation Advisory Board has two open positions on their board. Greg D'Amour and Carole Wheeler are currently serving as members until the two vacancies are filled. On October 3rd, the board recommended the appointment of applicant Allen Hansen Begg to serve as a member on their board. If approved by the Commission, he will serve a 2-year term on the board.

Mayor Pro-Tem Hechler made a motion appoint Allen Hansen Begg to the Recreation Advisory Board for a 2-year term. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

11. Discussion/Action: Consideration of the appointment of Robert McGuire to the Airport Advisory Board:

City Clerk Torres: The Airport Advisory Board has an open position on their board. On October 4th, the board recommended the appointment of applicant Robert McGuire to serve as a member on their board. If approved by the Commission, he will serve a 2-year term on the board.

Mayor Pro-Tem Hechler made a motion appoint Robert McGuire to the Airport Advisory Board for a two-year term. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

12. Discussion/Action: Annual request to hold one meeting in November and December 2022:

City Clerk Torres: Each year the Commission determines whether to combine meetings and only hold one meeting during the months of November and December due to the Thanksgiving and Christmas Holidays. The dates of the meetings will be November 16th, and December 14th.

Mayor Pro-Tem Hechler made a motion approve the annual request to hold one meeting in November on November 16th and one meeting in December 2022 on December 14th. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

13. Discussion/Action: Review, Approve and/or Allocate Funds to Geronimo Trail Scenic Byway (GTSB) for Postage Fulfillment for the year:

City Manager Swingle reviewed the Geronimo Trail Scenic Byway (GTSB) Lodgers Tax Application provided in the packet, and stated that the requested amount was approved by the Lodgers Tax Advisory Board.

Mayor Pro-Tem Hechler moved to approve the contract and allocate Funds to Geronimo Trail Scenic Byway (GTSB) in the amount of \$800.00 for Postage Fulfillment for the year. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

14. Discussion/Action: Review, Approve and/or Allocate Funds to Geronimo Trail Scenic Byway (GTSB) application for Visitor Center Feather Flag funding:

City Manager Swingle reviewed the Geronimo Trail Scenic Byway (GTSB) Lodgers Tax Application provided in the packet, and stated that the requested amount was approved by the Lodgers Tax Advisory Board.

Mayor Pro-Tem Hechler moved to approve the contract and allocate Funds to Geronimo Trail Scenic Byway (GTSB) in the amount of \$140.00 for the Visitor Center Feather Flag funding. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

15. Discussion/Action: Review, Approve and/or Allocate Funds to the Sierra County Rock & Gem Society for the T or C Rock and Gem Show:

City Manager Swingle reviewed the Sierra County Rock & Gem Society for the T or C Rock and Gem Show Lodgers Tax Application provided in the packet, and stated that the requested amount was approved by the Lodgers Tax Advisory Board.

Mayor Pro-Tem Hechler moved to approve the contract and allocate Funds to Sierra County Rock & Gem Society for the T or C Rock and Gem Show in the amount of \$6,250.00. Commissioner Harrelson seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

J. EXECUTIVE SESSION:

- 1. Threatened & Pending Litigation (*George Henson*) pursuant to 10-15-1(H.7).**
- 2. Threatened & Pending Litigation (*Robbie Montgomery*) pursuant to 10-15-1(H.7).**

Mayor Pro-Tem Hechler made a motion to go into executive session at 10:31 a.m. to discuss Threatened & Pending Litigation (*George Henson*) pursuant to 10-15-1(H.7) and Threatened & Pending Litigation (*Robbie Montgomery*) pursuant to 10-15-1(H.7) and he will recuse himself from Threatened & Pending Litigation (*Robbie Montgomery*) pursuant to 10-15-1(H.7). Commissioner Harrelson seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

CITY COMMISSION OCTOBER 12, 2022 REGULAR MEETING MINUTES

Mayor Pro-Tem Hechler recused himself after Threatened & Pending Litigation (George Henson) pursuant to 10-15-1(H.7) was discussed.

Mayor Forrister reconvened the meeting in open session at 11:01 a.m.

Commissioner Harrelson certified that only matters pertaining to Threatened & Pending Litigation (George Henson) pursuant to 10-15-1(H.7) and Threatened & Pending Litigation (Robbie Montgomery) pursuant to 10-15-1(H.7) was discussed in Executive Session.

No action was taken.

J. ADJOURNMENT:

Mayor Forrister adjourned the meeting at 11:02 a.m.

Passed and Approved this 26th day of October, 2022.

Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, CMC, City Clerk



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: F.2

SUBJECT: Acknowledge Public Utility Advisory Board Minutes, September 19, 2022.

DEPARTMENT: City Clerk's Office

DATE SUBMITTED: October 21, 2022

SUBMITTED BY: Angela A. Torres, City Clerk-Treasurer

WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Acknowledge Minutes.

Recommendation:

Acknowledge minutes.

Attachments:

Minutes

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

None.

Approved For Submittal By: ☐ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022

**CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MONDAY, SEPTEMBER 19, 2022**

MINUTES

REGULAR MEETING

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, September 19, 2022 at 3:30 pm.

CALL TO ORDER:

The meeting was called to order by Chairman Szigeti.

ROLL CALL:

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

ALSO PRESENT:

Bruce Swingle, City Manager
Traci Alvarez, Assistant City Manager
Lisa Gabaldon, Deputy Clerk
Casey Froese, Assistant Clerk

1. APPROVAL OF AGENDA:

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

2. APPROVAL OF MINUTES:

- a. Regular meeting of August 15, 2022.

Member Armijo made a motion to approve the minutes.
Member Pacourek seconded the motion.
Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC: (3 Minute rule applies)

No comments.

4. OLD BUSINESS:

a) Discussion/Action: Auto Rate Increase, George Szigeti

Chairman Szigeti went over the attachment he submitted to the board regarding the changes that he's made pertaining to the utilities ordinance. (Attached). He will put it in the proper format and bring it before the board next month.

b) Discussion: Contingency Planning for City Utilities

Chairman Szigeti advised he knows of a video of a small German town that has managed to make its self totally energy self-sufficient. Lines were purchased from the utility department and added windmills and solar panels and now produces 100 times more electricity than the town uses and exports out the excess. Szigeti further explained how the German city was able to have electricity during grid outages. Szigeti also further mentions about wiring the solar grid in T or C to where it could power certain utilities for certain buildings for emergency cases.

5. REPORTS FROM THE BOARD:

No reports at this time.

6. REPORTS FROM STAFF:

City Manager Swingle introduced Pete English as the director for the water/wastewater department. He went on to talk about the seriousness of the infrastructure with the water/wastewater departments. The VAC station is a significant problem for the department now and the cost for the fix will be expensive. Pete is looking into the best solutions so that we can address the problem. Water leaks are continuing to surface all over town. This will be costly for the community. They have some plans in place and they've had engineering studies done; they just need to have the money to implement the fixes.

Pete English stated that in the time that he's been here, going around town and seeing the different pipes that are in the ground, there are several locations throughout the City where fire-flow is not sufficient. If we do not get this upgraded there could be potential for big disasters down the line. We really need to upgrade the entire infrastructure system.

Chairman Szigeti stated that the board knows of all of the struggles going on with this department and they are thankful for everything that they do.

City Manager Swingle made reference to an attachment in the agenda packet with regards to NMED Drinking Water Bureau. It shows how low our water rates are comparatively across the state and entities of similar size; we are substantially under those rates. The current rate that we have today has helped us get into the position where we are at today, where we are looking for money to invest into our infrastructure. Historically they have taken money from the electric department, but he has never looked into how much money has been taken from water/wastewater.

Chairman Szigeti stated that the board may have to come up with another rate increase on top of the 5%.

City Manager Swingle advised the board that they have not been notified from the congressional delegation. Senator Heinrich was going to support and endorse 5.2 – 5.4 million for the process. Last week he heard that it was in senate appropriations committee and they haven't heard anything. They've been told that a number of people that have been denied have been contacted; we have not had contact yet, so no news is good news.

Assistant City Manager Alvarez commented on the Water Rate Study attachment that was included in the agenda packet. She advised that this was for their own reference.

City Manager Swingle stated that they are currently having an electric study done now; the results are still a couple of months out before they will receive anything, but they expect that there will be an increase just based on the time frame of when the department had the last increase. He went on to say that next month the board will want the quarterly reports for the first quarter of this fiscal year.

7. ADJOURNMENT:

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

PASSED AND APPROVED ON THIS 17th DAY OF OCTOBER 2022.


George Szigeti, Chairman
Public Utility Advisory Board



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: F.3

SUBJECT: Subrecipient FY 22/23 1ST Quarter Reports
DEPARTMENT: City Manager's Office
DATE SUBMITTED: October 18, 2021
SUBMITTED BY: Tammy Gardner, Executive Assistant
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

Contract requires that recipients of Subrecipient funding submit a quarterly report to the City by the 15th of the month following the quarter.

Recommendation:

Accept the 1ST Quarter Reports

Attachments:

- Checklist
- Reports

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

None.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text. Ordinance No. Click here to enter text.

Continued To: Click here to enter a date. Referred To: Click here to enter text.

☐ Approved ☐ Denied ☐ Other: Click here to enter text.

File Name: CC Agendas 10-26-22.

COMPANION ANIMAL ACTION TEAM
PO BOX 512
WILLIAMSBURG, NM 87942



SUBRECIPIENT GRANT
FY 2022/2023
(1st) QUARTER INVOICE

Date of Invoice: *October 7, 2022*

Invoice Amount: \$ 250.00

Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$1000.00
Quarter Draw: \$250.00

Please send payment to: *Companion Animal Action Team*
PO Box 512
Williamsburg, NM 87942

Thank you,

A handwritten signature in black ink that reads 'Majorie E. Powey'. The signature is fluid and cursive.

Signature of Authorized Representative
Majorie E Powey
575-740-0421

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SUB-RECIPIENT QUARTERLY REPORT

FY: 2022-2023

ORGANIZATION: COMPANION ANIMAL ACTION TEAM

ALLOCATION: \$1,000.00

(FY Allotment, Not Qtr. Draw)

QUARTER: 1ST

(1st/2nd/3rd/4th)

(Please confine your report to a one-page "narrative" for each quarter.)

We held two clinics in the first quarter of 2022/2023. Clinics were held on August 11 and September 8. We did not have a clinic in July

In August we did 14 cat spays and 6 feline castrations. We did 3 dog spays and 4 castrations. Usually we do a total of 25 but because of the large number of cats and only 7 dogs we were allowed two extra cats.

In September we did 9 female cat spays and 7 male cat neuters. We did 4 male dog neuters and 5 large female dog spays.

Amy is charging more for travel and I am attaching a voucher for you to see the charges.

SUBMITTED BY: Majorie E Powey /

TYPED NAME

SIGNATURE

DATED: 10/10/22

Rev. 5/2013

INVOICE

PNH Mobile 2

3233 N. Mesa St Suite 210
El Paso, TX 79902
915-584-4491

"Helping El Paso Help Their Pets"

FOR: T or C CAAT
PO BOX 204
Williamsburg, NM

Printed: 08-11-22 at 3:30p
Date: 08-11-22
Account: 15892
Invoice: (open)

Date	For	Qty	Description	Price	Discount	Net Price
Services by Amy Starr, DVM PS						
08-11-22	2022/08/11	224	PNH-M Milleage (S/N Clinic) per mil	896.00	181.00	715.00 **
08-11-22		1	S/N Clinic Day			1500.00
08-11-22		27	PNH-M Presurgery Intake Exam	486.00	486.00	0.00 **
08-11-22		6	Feline Castration	330.00	330.00	0.00 **
08-11-22		14	Feline Ovariohistorectomy	1050.00	1050.00	0.00 **
08-11-22		3	Canine Ovariohisterectomy	360.00	360.00	0.00 **
08-11-22		4	Canine Castration	400.00	400.00	0.00 **
08-11-22		72	PNH-M2 Tramadol Tablet 50mg (1	33.84	33.84	0.00 **
08-11-22		14.80	PNH2 Ketamine-Xylazine Comb Inj			0.00
08-11-22		2.60	PNH-M2 Metacam/Loxi Inj 5mg/m (50.00
08-11-22		0.40	PNH-M Convenia Injection 80mg/m			42.00
08-11-22		6	PNH-M In-House FELV/FIV Test			234.00
08-11-22		20	PNH2 Feline FVRCP Vaccine (1ml)			180.00
08-11-22		4	PNH2 K9 DAPP Inventory (1ml)			36.00
08-11-22		25	PNH2 Rabies 3yr Vaccine (10ml)			350.00

Services by

08-11-22	#1513	Check payment	-3107.00
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Old balance	Charges	Payments	Discount	New balance
0.00	3107.00	3107.00	2840.84 **	0.00

Your invoice total reflects our **Client Class 1** discount.

Reminders for: 2022/08/11	Last done
08-11-23 MVC Exam W/Vaccines	08-11-22

Thank you for letting us care for your pet(s)! Refer a new client and get \$20 off your next visit.

We will not process any type of credit card transaction without proper form of card holder's I.D. present.

We do not give refunds or reimbursements for professional services rendered, deposits on surgeries/major procedures or inventory items that have left the facility. Further charges such as lab tests, radiology, hospitalization, anesthesia and pharmacy items not posted at the time of discharge may be billed later. We do require a 24 hour advanced notice on all/any cancellations. \$25 cancellation fee will be charged on all No show less than 24 hours notice and surgery deposits will be forfeited. We appreciate your understanding.

Also, check out our website (www.paws-n-hoovesvetclinic.com), online pharmacy, Facebook, YouTube, Pinterest, SnapChat and LinkedIn!

Do you have additional questions? Call us at Paws N' Hooves Mobile Veterinary Services (915) 490-4849 or Mesa Veterinary Clinic (915) 584-4491.

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ORGANIZATION/RECIPIENT'S NAME

ADDRESS

CITY, STATE and ZIP

SUBRECIPIENT GRANT
FY 2022/2023
(1st) QUARTER INVOICE

Date of Invoice: *October 4, 2022*

Invoice Amount: *\$500.00*

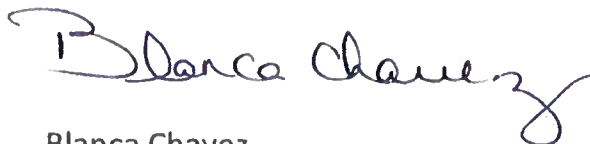
Submit To: *City of Truth or Consequences*
ATTN: City Manager's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: *\$2000.00*

Quarter Draw: *\$500.00*

Please send payment to: *Domestic Abuse Intervention Center*
P.O. Box
Truth or Consequences, NM 87901

Thank you,



Blanca Chavez
575-894-3557

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14

SUB-RECIPIENT QUARTERLY REPORT

FY: 2022/23

ORGANIZATION: Domestic Abuse Intervention Center

ALLOCATION: \$2,000.00

QUARTER: 1st

(FY Allotment, Not Qtr. Draw)

(1st/2nd/3rd/4th)

(Please confine your report to a one-page "narrative" for each quarter.)

Statistical Information:	Years	Victimization	Referral
Female- 40	Anglo- 13	18-21- 23	Emotional -24
Male-10	Hispanic- 8	22-40- 16	Physical -15
	Other- 29	41-59- 11	Sexual- 8
		60-74- 0	Stalking-
		Unknown - 0	Unknown-3
			CYFD-

Type of Contact:	Volunteer Hours: Total- 1704
Orders of Protection- 10	Cell Phone- 1704
Individual Support Sessions- 15.5	Administrative-
Group - 171	Crisis -
Victim Advocacy - 125.75	Office-
Crisis Intervention -9	Direct Client Contact (crisis)-10
Shelter - 1	Transportation-
Food - 1	
Legal Advocacy - 1.25	
Case Management - 40.30	
DVOTI Individual Sessions - 5	

September -

Audit \$500.00

Total \$500.00

SUBMITTED BY: Blanca Chavez

TYPED NAME

Blanca Chavez

SIGNATURE

DATED: 10/04/22

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Sierra Joint Office on Aging

360 W. 4th Ave.

Truth or Consequences, NM 87901

SUBRECIPIENT GRANT

FY 2022/2023

1st QUARTER INVOICE

Date of Invoice: 10/13/22

Invoice Amount: \$8,750.00

Submit To: *City of Truth or Consequences*

ATTN: City Clerk's Office

505 Sims Street

Truth or Consequences, NM 87901

Allocation Amount: \$35,000.00

Quarter Draw: \$8,750.00

Please send payment to: *Sierra Joint Office on Aging*

360 W. 4th Ave.

Truth or Consequences, NM 87901

Thank you,



Lisa L. Mattingly

Finance Director

575-894-6641

SUBRECIPIENT QUARTERLY REPORT
FY: 2022/2023

RECEIVED OCT 13 2022

Th

ORGANIZATION: Sierra Joint Office on Aging

ALLOCATION: \$35,000.00 \$ 8,750.00 QUARTER: 1st
(FY Allotment) (Quarterly Draw) (1st/2nd/3rd/4th)

SUBMITTED BY: Lisa L. Mattingly *Lisa L. Mattingly*
Print Name Signature

(Report is due by the
15th of the month
following the QTR.)

(Please detail the progress made in providing the services each quarter.)

We continue to serve meals in the dining room but still offer meals to go (Grab-n-Go) as we have the last two years due to lingering COVID concerns. Transportation services have been opened up to other destinations besides doctors and grocery shopping. Homemakers have resumed in home services with additional precautions.

We provided the following services in the last quarter:

- 2,844 Congregate meals in the dining room.
- 6,975 Grab-n-Go Meals served
- 9,415 Meals delivered to Homebound seniors
- 2,797 Transportation both locally and a daily Las Cruces run for Dr. appointments.
- 46 rides for Assisted Transportation
- 1,407.25 hrs. Homemaking services provided
- 187.75 hours provided for Respite.

We are seeing an increase in meals served as snowbirds return for the winter. We are still trying to hire more homemakers as we have wait lists for homemaker and respite services.

The plumbing project continues but the HVAC replacement project is now operational. We are working on securing the additional funding for a wheelchair van and replacement for one of our older meal delivery vehicles. We would like to thank the City Manager and Assistant City Manager for all their help making these capital outlay projects a success.

The Club
122 N. Broadway St.
T or C, NM 87901

RECEIVED OCT 04 2022
19

SUBRECIPIENT GRANT
FY 2022/2023
1st QUARTER INVOICE

Date of Invoice: 10/4/2022

Invoice Amount: \$1,250


Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$5,000

Quarter Draw: \$1,250

Please send payment to: *The Club*
1300 S. Broadway
T or C, NM 87901

Thank you,


Charis Baxter
505-446-0030

RECEIVED OCT 04 2022

14

SUB-RECIPIENT QUARTERLY REPORT

FY: 22/23

ORGANIZATION: The Club

ALLOCATION: \$5,000.00

(FY Allotment, Not Qtr. Draw)

QUARTER: 1st

(1st/2nd/3rd/4th)

(Please confine your report to a one-page "narrative" for each quarter.)

The Club provided free Dinners to all youth who attended our programming. We provided transportation to and from the schools as well as sports and club practices and meetings along with games. We were open 12-6 mon-fri during the holiday break and took 3pm-6pm Mon-Fri during the school year.

We taught healthy cooking and lifeskills such as resume building and interviews.

We provided high quality trained mentors for youth to connect with as well as out of school time programming at no cost. We have provided a multitude of free classes based on youth interest.

The Club served a total of 50 registered youth during this quarter.

SUBMITTED BY:

Charis Baxter

TYPED NAME



SIGNATURE

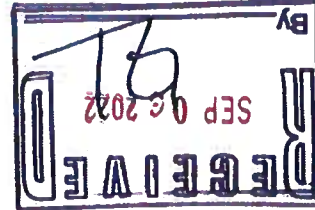
DATED: 10/04/22

Rev. 5/2013

Geronimo Trail Scenic Byway, Inc.

P O Box 1072 • 301 S Foch • Phone (575) 894-1968
Truth or Consequences, New Mexico 87901

INVOICE subrecipient grant



Date 9-6-2022

To City of Truth or Consequences

For Operating expenses July 2022 August 2022

Telephone	\$	127.46	127.45
Renters Insurance	\$	62.83	62.83
Postage	\$	13.85	16.35
Supplies & printing	\$	391.16	
Actual total	\$	595.30	206.63

Amount due \$ 833.32 per contract

Thank you

L' Miller

Geronimo Trail Scenic Byway, Inc.

P O Box 1072 • 301 S Foch • Phone (575) 894-1968

Truth or Consequences, New Mexico 87901

RECEIVED OCT 14 2022

TG

INVOICE subrecipient grant

Date 10/13/2022

To City of Truth or Consequences

For Operating expenses September 2022

Telephone	\$	127.55
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Renters Insurance	\$	62.83
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Postage	\$	15.43
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Supplies & printing	\$	
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Actual total	\$	205.81
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Amount due \$ 416.66 per contract

Thank you

Lafena Miller

RECEIVED OCT 14 2022

SUBRECIPIENT QUARTERLY REPORT

(Report is due by the 15th of the month
following the quarter.)

FY: 2022-2023

ORGANIZATION: Geronimo Trail Scenic BywayALLOCATION: \$5,000.00QTR DRAW: \$1,250.00QUARTER: 1st

(FY Allotment, Not Qtr. Draw)

(1st/2nd/3rd/4th)

(Please detail the progress made in providing the services each quarter.)

July, August, September we were open 7 days a week, Sunday - Thursday 10 - 3; Friday and Saturday 9 - 4:30. Through September 31 we had 1,676 visitors sign in, responded to 149 telephone calls for information, responded to 531 emails, and mailed out 4 packet of visitor information and 2 relocation packets. We shipped 1 box of assorted brochures to Hobbs and 1 box of assorted brochures to Silver City, both requested by them.

Total expenses for the period:

Telephone \$ 382.46

Insurance \$ 188.49

Postage \$ 45.63

Supplies \$ 391.16

Total expenses for the qtr \$ 1007.74*Money has been held back for additional supplies and printing that will be paid in October.*

Our volunteers rotate days of the week. We continue to open and close the Spaceport America tour depot. They plan to have new displays installed before the end of the year. They continue to have tours out of their center on Saturdays. Our volunteer opens at 8:00 am on tour Saturdays and stays until after 5:00 pm for the afternoon tour to return for the convenience of their guests. This time is in addition to the hours we turn in, as it depends on the tour schedule.

We contribute a minimum of 48 volunteer hours per week in the visitors center. The volunteer director spends approximately 12 hours per month on administrative duties above and beyond her volunteer hours. We are closed Thanksgiving, Christmas Day and New Year's Day and Easter.

We contribute over \$40,000.00 to the City with our volunteer duties promoting the City.

We have a booth at the Sierra County Fair each year to bring attention to the Byway by local residents. We work with the New Mexico Tourism Department and New Mexico True with our on-line advertising, and use both City and County lodgers tax for printing of some of our brochures and for social media advertising.

SUBMITTED BY:

LaRena Miller

TYPED NAME

LaRena Miller

SIGNATURE

DATED: 10/13/22

Rev. 5/2014

MainStreet Truth or Consequences
PO Box 1602
Truth or Consequences, NM 87901

RECEIVED OCT 05 2022

Th

SUBRECIPIENT GRANT
FY 2022/2023
(1st) QUARTER INVOICE

Date of Invoice: 10/05/2022

Invoice Amount: \$ 11,250.00

Submit To: *City of Truth or Consequences*
ATTN: City Clerk's Office
505 Sims Street
Truth or Consequences, NM 87901

Allocation Amount: \$ 45,000
Quarter Draw: \$ 11,250.00

Please send payment to: *MainStreetTorC attn.: Treasurer*
PO Box 1602
Truth or Consequences, NM 87901

Thank you,



Blanch Almquist, Treasurer
(575) 543-8182

RECEIVED OCT 05 2022

SUBRECIPIENT QUARTERLY REPORT FY: 2022/2023

ORGANIZATION: Mainstreet Truth or Consequences (MSTC)

(Report is due by the 15th of the month following the QTR.)

ALLOCATION: \$45,000

(FY Allotment)

\$11,250

(Quarterly Draw)

QUARTER: 1st

(1st/2nd/3rd/4th)

SUBMITTED BY: Kate K. Hall

Print Name

Kate K. Hall

Signature

(Please detail the progress made in providing the services each quarter.)

MainStreet Truth or Consequences (MSTC) continues to provide community economic growth revitalization services to the property and business owners and residents of the district through the MainStreet Four-Point Approach®, and in alignment with the guidelines of the National Main Street Center. Our coordination with local government partners ensures that appropriate financial revitalization tools, created through state statute for economic development (inclusive of any statutory changes), are adopted by the local government partner for the MainStreet District. These tools may include the Local Economic Development Act (LEDA), a Metropolitan Redevelopment Area (MRA), District Master Plan, and/or Cultural Economic Development Plan, and related finance mechanisms, such as Tax Increment Finance District (TIF), a Tax Increment Development District (TIDD) and/or a Business Improvement District (BID).

Board adopted Economic Transformation Strategy (ETS) priorities that support MSTC work activities include:

1. Enhance economic opportunities in the district and increase foot traffic by area residents and visitors.
2. Implement property redevelopment tasks and improvements to the physical assets/appearance in the district.

Relevant work supporting the ETS priorities this quarter includes:

- Hired and on-boarded a new Executive Director.
- Board of Directors updated the 2022/23 ETS strategies in compliance with MSTC annual meeting requirements and state accreditation requirements.
- Expanded board of directors to seven members as required by the MSTC bylaws.
- Updated vacancy list of downtown buildings.
- Added business resources and a business directory to the MSTC website.
- Provided information and assistance to small business startups, including support with licensing/permitting.

Coordinated and promoted music and events for the monthly Saturday Second Saturday Art Hop.

- Started the monthly Shop Small Raffle which encourages downtown district shoppers and has shown a steady gain in participation since its conception.
- Continued adherence to monthly reporting obligations and monitoring of the Great Blocks Capital Outlay project for the renovation of the Foch Street Project.
- Sponsored and supported the celebration of the 50th anniversary of Geronimo Springs Museum.
- Provided litter pickers event with supplies and tools for the world cleanup day event in the downtown district.
- Prioritized work with the State to improve safety conditions on Main Ave.
- Met with numerous small businesses in the district to promote MainStreet efforts, promote Healing Waters Plaza, and encouraged unused storefronts to display art or posters.
- The board reinstituted “façade squad” as a MSTC priority in support of ETS #2 for physical asset improvement and beautification of the district. Work sponsored and supported this quarter include:
 - Exterior paint for Mile Marker 7 completed
 - Hot Sprints Mural for Bullocks has been started (funded by Lodger’s Tax)
 - Technical Assistance coordinated with NM MainStreet to provide design plans to the owner of the El Cortez Theater for exterior façade improvements.

MainStreetTorC Budget 2022-2023 attached

MainStreet Truth or Consequences Budget 2022-23

Budget Categories/Lines	Total 2022-23 Budget
Income (list by source)	
General Unrestricted Fund Year-End Balance	\$28,878.56
Donations/Fundraising Goal-Gross	\$10,000.00
Board Contributions	\$3,500.00
Sponsorships	\$5,000.00
City of T or C - Subrecipient Grant	\$45,000.00
NMRA	\$5,000.00
City of T or C - Lodger's Tax	
Total Income	\$97,378.56
Personnel (list each position)	
Executive Director @ 1.0 FTE	\$35,000.00
Payroll Taxes	\$10,670.00
Total Personnel and Benefits/Taxes	\$45,670.00
Administrative Expense	
Rent - office building	\$3,600.00
Power, Water, Sewer	\$1,800.00
Telecommunications	\$1,020.00
Office Supplies and Materials	\$1,000.00
Postage and Mailing	\$150.00
Printing/Copying	\$500.00
Travel (mileage, transportation, per diem)	\$3,450.00
Memberships & Subscriptions	\$819.00
Liability Insurance	\$1,780.00
Contractors: Bookkeeping/CPA	\$2,350.00
Training/Professional Development Registration Fees	\$500.00
Total Administrative Expense	\$16,969.00
Program Expense	
Beautification Project (Facade Squad)	\$5,000.00
Marketing/Outreach/Promotion	\$11,750.00
Awards & Recognitions	\$200.00
Other Projects	\$500.00
Total Program Expense	\$17,450.00
Total Operating Expenses:	\$80,089.00
Total Income	\$97,378.56
Misc. / Carryover 2022-23	\$17,289.56



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: F.4

SUBJECT: Take-home vehicle forms
DEPARTMENT: City Clerk's Office
DATE SUBMITTED: October 21, 2022
SUBMITTED BY: Angela A. Torres
WHO WILL PRESENT THE ITEM: Consent Calendar

Summary/Background:

The City of Truth or Consequences Water Department has an employee who will be taking home a City Vehicle. In accordance with Resolution No. 12 21/22, all take-home vehicle requests must be approved by the City Commission. The take-home vehicle requests are for Chad Merrick and Sean Yorty at the Airport.

Recommendation:

Approve take-home vehicle forms.

Attachments:

- Take-home vehicle forms.

Fiscal Impact (Finance): N/A

Legal Review (City Attorney): N/A

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☒ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. [Click here to enter text.](#)

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

☐ Approved ☐ Denied ☐ Other: [Click here to enter text.](#)

File Name: CC Agendas 10-26-2022



Take Home Vehicle Authorization Request

Employee: Sean Yorty Department: Airport

Position Title: Attendant Commute Miles/Day: 7.2

Employee Address: 1008 E 7th AVE TOS, NM 87901

Pursuant to the Take-Home Vehicle Policy, requests to authorize take-home vehicles must demonstrate an official need for a City vehicle beyond normal working hours. Identify which, if any, of the following reflect the official need for the city vehicle beyond normal working hours.

☒ **Emergency Response:** Employee has primary responsibility for responding to emergency situations which require immediate response to protect life or property.

☒ **On-call Status:** Employee is on-call and responds to public safety or health emergencies occurring after normal work hours and on weekends.

☐ **Other:** explain _____

Note: A city owned take-home vehicle is a fringe benefit that may generate a tax liability.

By signing below, I acknowledge that I have read and understand the City policy governing proper use of a take-home vehicle and prohibitions. By voluntarily participating in the take-home vehicle program, I consent to complying with the policy, and I certify that this request meets the requirements of the City's Take-Home Vehicle Policy.

[Signature]
Employee's Signature

18 OCT 2022
Date

[Signature]
Department Director Signature

☒ Approved ☐ Denied

Commission

☐ Approved

☐ Denied

Amanda Forrister, Mayor Signature

Date



Take Home Vehicle Authorization Request

Employee: CHAD MERRICK Department: AIRPORT

Position Title: AIRPORT ATTENDANT Commute Miles/Day: 7mi (14 R.Trip)

Employee Address: 11111-195, PLUMMER BUTTE N.M. 87335

Pursuant to the Take-Home Vehicle Policy, requests to authorize take-home vehicles must demonstrate an official need for a City vehicle beyond normal working hours. Identify which, if any, of the following reflect the official need for the city vehicle beyond normal working hours.

☒ **Emergency Response:** Employee has primary responsibility for responding to emergency situations which require immediate response to protect life or property.

☒ **On-call Status:** Employee is on-call and responds to public safety or health emergencies occurring after normal work hours and on weekends.

☐ **Other:** explain _____

Note: A city owned take-home vehicle is a fringe benefit that may generate a tax liability.

By signing below, I acknowledge that I have read and understand the City policy governing proper use of a take-home vehicle and prohibitions. By voluntarily participating in the take-home vehicle program, I consent to complying with the policy, and I certify that this request meets the requirements of the City's Take-Home Vehicle Policy.

C. Merrick
Employee's Signature

10-18-2022
Date

[Signature]
Department Director Signature

☒ Approved ☐ Denied

Commission

☐ Approved

☐ Denied

Amanda Forrister, Mayor Signature

Date



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: G.1

SUBJECT: Public Hearing and Final Adoption of Ordinance No. 741 to amend Article VIII, Section 7-202 of the City Code of Ordinances, pertaining to the Collection of Lodgers Tax and Reporting Procedures

DEPARTMENT: City Manager's Office

DATE SUBMITTED: October 21, 2022

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

This proposed Ordinance No. 741 pertaining to the Collection of Lodgers Tax and Reporting Procedures was approved for publication at the September 28, 2022 meeting. Final steps are a public hearing and final adoption.

Recommendation:

Final adoption of proposed ordinance.

Attachments:

- Proposed Ordinance No. 741
- -

Fiscal Impact (Finance): N/A

-

Legal Review (City Attorney): Yes

-

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☒ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. [Click here to enter text.](#)

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

☐ Approved ☐ Denied ☐ Other: [Click here to enter text.](#)

File Name: CC Agendas 10-26-2022

CITY OF TRUTH OR CONSEQUENCES

ORDINANCE NO. 741

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES, BE AMENDED BY AMENDING ARTICLE VIII SECTION 7-202 PERTAINING TO THE COLLECTION OF LODGER'S TAX:

Section One. That section 7-202 of the Lodger's Tax Ordinance shall be amended to read as follows:

SEC. 7-202. - COLLECTION OF THE TAX AND REPORTING PROCEDURES.

- (a) Every vendor providing lodgings shall collect the tax thereon on behalf of the Municipality and shall act as a trustee therefor.
- (b) The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.
- (c) Each vendor licensed under this article shall be liable to the Municipality of Truth or Consequences tax provided herein on the rent paid for lodging at his respective place of business.
- (d) Each vendor shall make a report by the 25th day of each month, on forms provided by the City Clerk, of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodgers' tax to the Municipality and include sufficient information to enable the Municipality to audit the reports and shall be verified on oath by the vendor.
- (e) For transactions where a vendor uses a Marketplace Provider to facilitate the sale of lodgings, the City may use a "Marketplace Provider" as follows:
 - 1. Definition: A Marketplace Provider means any person who facilitates a retail sale by a vendor by listing or advertising for sale or furnishing by the vendor, in any manner, rooms, lodging, or other accommodations through agreements or arrangements with 3rd parties.
 - 2. Marketplace Providers shall be responsible for collecting all applicable lodgers taxes and remitting the same to the City. The marketplace provider shall be considered an agent of the vendor for purposes of lodgers tax collections and remittance responsibilities as set forth in this ordinance.

3. A Marketplace Provider operating exclusively on the internet, who operates in compliance with subsection 2 above, shall be presumed to be in compliance with this ordinance, except that the marketplace provider remains responsible for compliance with the administrative penalty provisions described in this section.

Section two. All Ordinances or Resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution or part thereof, heretofore repealed.

Section three. This Ordinance shall take effect on the 31st day of October, 2022.

PASSED, APPROVED, and ADOPTED by the GOVERNING BODY of the CITY OF TRUTH OR CONSEQUENCES this 26th day of October, 2022.

Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, City Clerk



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: H.1

SUBJECT: Resolution No. 15 22/23 Budget Adjustment Request

DEPARTMENT: Finance Department

DATE SUBMITTED: October 21, 2022

SUBMITTED BY: Carol Kirkpatrick, Finance Director

WHO WILL PRESENT THE ITEM: City Manager Swingle

Summary/Background: Reconciling Budget Adjustments Requests (based on Chapter 6, Article 6 NM Statute) needed for budget adjustments, increases, and decreases per attached.

Recommendation:

Approval Resolution No. 15 22/23 Budget Adjustment Requests for Fiscal Year 2022-2023

Attachments:

Resolution No 15 22/23

- Schedule of Budget Adjustments, Supporting Documentation

Fiscal Impact (Finance): Yes

Changes in funding as presented on the Department of Finance and Administration Schedule of Budget Adjustments

Legal Review (City Attorney): N/A

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☒ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text Ordinance No. .

Continued To: . Referred To: .

☐ Approved ☐ Denied ☐ Other: .

File Name: CC Agendas 10-26-2022



RESOLUTION NO. 15 22/23

A RESOLUTION REQUESTING FINAL BUDGET ADJUSTMENTS IN THE REVENUE AND EXPENDITURE BUDGET FOR FISCAL YEAR 2022-2023.

WHEREAS, the final budget for was approved by the City Commission of the City of Truth or Consequences, New Mexico, pursuant to Chapter 6, Article 76 NMSA 1978; and

WHEREAS, the City Commission in and for the City of Truth or Consequences, State of New Mexico needs to adjust the current approved budget for Fiscal Year 2022-2023; and

WHEREAS, said budget was adjusted on the basis of need and through cooperation with all user departments, elected officials and other department supervisors; and

WHEREAS, the official meeting for the review of said documents was duly advertised in compliance with the State Open Meetings act; and

WHEREAS, it is the majority opinion of this Board that the adjusted budget meets the requirements as currently determined.

NOW THEREFORE, BE IT RESOLVED that the City Commission of the City of Truth or Consequences, State of New Mexico hereby adopts the budget adjustment hereinabove described and attached and respectfully requests approval from the Local Government Division of the Department of Finance and Administration.

PASSED, ADOPTED and APPROVED this 26th day of October, 2022.

Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, City Clerk-Treasurer

Department of Finance and Administration
 Local Government Division
 Financial Management Bureau
 SCHEDULE OF BUDGET ADJUSTMENTS

For Local Government Division use only:

ENTITY NAME: City of Truth or Consequences
 FISCAL YEAR: 2022-23 10/26/2022
 DFA Resolution Number: 15 22/23
 BAR NUMBER 3

DOCUMENT NUMBER	FUND	ACCOUNT STRING	ACCOUNT NAME	REVENUE, EXPENDITURE, or TRANSFER (TO or FROM)	APPROVED BUDGET	ADJUSTMENT / INCREASE	ADJUSTMENT / DECREASE	ADJUSTED BUDGET	PURPOSE
1	General	101-1099-34377	PD TORC SRO	Revenue	\$ -	\$ 59,000.00	\$ -	\$ 59,000	Contract for school resource officer FY22/23
							\$ -	\$ -	
							\$ -	\$ -	
ATTEST: <u>Angela Torres, Clerk-Treasur</u> (Date) <u>Amanda Forrister, Mayor</u> (Date)									

THIS SERVICE AGREEMENT dated this 22nd day of June, 2022

BETWEEN AND BY:

Truth or Consequences Municipal Schools (TCMS)
910 N. Date Street
Truth or Consequences, NM 87901

AND

City of Truth or Consequences Police Department (TCPD)
507 McAdoo Street
Truth or Consequences, New Mexico, 87901

WHEREAS, the TCMS requires the services of a School Resource Officer (SRO) and the TCPD agrees to provide and manage for the TCMS a SRO in the TCMS consisting of one full-time SRO, their vehicle, supplies and equipment and the TCMS agrees to reimburse the TCPD for its expenses in providing the said SRO Program; and

WHEREAS the TCMS and the TCPD desire to set forth in this SRO Agreement the specific terms and conditions of the services to be performed and provided by the said SRO in the TCMS;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section I: Goals and Objectives

It is understood and agreed that the TCMS and TCPD officials share the following goals and objectives with regard to the SRO in the schools:

Foster a positive community relationship with students, school officials, and parents to include participating in educational programs and activities that will increase student's knowledge of and respect for the law and the function of law enforcement agencies;

Attend extra-curricular activities held at schools, when possible, such as school board meetings, athletic events, and other school functions;

Act swiftly and cooperatively when responding to reports of criminal offenses at school;

Report crimes that occur on campus to school officials, and investigate any crime reported that occurred within TCPD jurisdiction. Assist with home visits for truancy, attendance or student welfare issues at residences within the city. If the crime did not occur or a residence is not located within TCPD jurisdiction, the SRO shall cooperate and refer such case to a law enforcement agency that has jurisdiction to investigate the matter.

Provide traffic control at schools for the safety and protection of students and the general public.

Section II: Employment and Assignment of School Resource Officers

TCPD agrees to employ one SRO during the term of this agreement. The SRO shall be an employee of the TCPD and shall be subject to the administration, supervision and control of the TCPD and City of Truth or Consequences, except as such administration, supervision and control is subject to the terms and conditions of this Agreement.

The SRO shall be subject to all other personnel policies and practices of the TCPD and the City of Truth or Consequences. TCPD and the City of Truth or Consequences, in its sole discretion, shall have the power and authority to hire, discharge and discipline SRO. The TCPD shall hold the TCMS free, harmless and indemnified from and against any and all claims, suits or causes of action arising out of allegations of unfair or unlawful employment practices brought by SRO.

In the event an SRO is absent from work for less than one school day, the SRO shall notify their supervisor in the TCPD and TCMS agrees that on-duty patrol officers will handle calls for services arising from TCMS while the SRO is absent. TCPD agrees to assign another police officer to substitute as a SRO only when the SRO is absent from the school more than one school day. TCPD agrees to notify the superintendent when a SRO is absent from the school for a period exceeding one school day.

SRO will provide each school principal and superintendent with his or her working schedule and phone number contact information. TCMS agrees that the SRO may have occasions during a school work day where he or she may be not physically present at the schools such as but not limited to: attendance at court ordered hearings, attendance at department meetings and/or trainings, attendance at prosecution meetings, assistance to on-duty patrol officers/detective, or conducting traffic safety enforcement operations near or around school zones.

Section III: Compensation

For and in consideration of the TCPD providing the SRO Program as described herein, the TCMS agrees to reimburse the City of Truth or Consequences fifty-nine thousand dollars (\$59,000) per school twelve-month period, subject to approval by the Truth or Consequences City Commission and Truth or Consequences Municipal Schools School Board. The said compensation shall occur in twelve equal monthly installments on or about the first day of each calendar month by the TCMS to the City of Truth or Consequences. Any SRO incurred overtime compensation (any hours after the 84th hour per city pay period) related to TCMS SRO duties shall be billed to TCMS at the end of the month and due payable to the City of Truth or Consequences by the 10th day of the following month.

Section IV: Duty Hours

The maximum number of hours that a SRO officer shall be on duty in a work week shall be 42 hours and the minimum shall be 40 hours. Specific SRO duty hours are 7:30 a.m. to 3:30 p.m. during school in session days. Prior SRO schedule change arrangements can be made when there is an agreement between TCMS and the assigned SRO to include allowing the SRO to change the above specified duty hours on particular days (i.e., flex Fridays) to other days/times, so that the SRO can attend extracurricular activities to include any school sponsored meetings, events, functions including athletic events on regular work time oppose to overtime.

TCMS agrees to provide TCPD a schedule or reasonable notice of extracurricular activities to include any school sponsored meetings, events, functions including athletic events, which the SRO presence is requested. TCMS agrees to compensate TCPD for any overtime hours (any hours after the 84th hour per city pay period) worked by the SRO at their request. When school is not in session, the SRO shall perform regular law enforcement duties within the city at the direction of TCPD.

It is understood and agreed that time spent by SRO attending court juvenile, criminal cases and/or any other official matter arising from and/or out their assignment as an SRO shall be considered as hours worked under this Agreement. TCMS agrees that in the event of an emergency the SRO is ordered by the TCPD to leave their school duty station during normal duty hours as described above and to perform other services for the TCPD, the time spent shall not be considered hours worked under this agreement, but the SRO shall make up those hours in the current or upcoming pay period.

Section V: Basic Qualifications of School Resource Officers (SROs)

To be a SRO, an officer must first meet all of the following basic qualifications:

Shall be a commissioned law enforcement officer;

Shall possess a sufficient knowledge of the applicable Federal and State laws, City ordinances, and Board of Education policies and regulations;

Shall be capable of conducting criminal investigations;

Shall possess even temperament and set a good example for students; and

Shall possess communication skills which would enable the officer to function effectively within the school environment.

Section VI: Duties of School Resource Officers

To protect lives and property for community residents, school employees, students and visitors;

To provide traffic control at schools for the safety and protection of students and the general public

To enforce Federal, State and Local criminal laws and ordinances, and to assist school officials with the enforcement of Board of Education Policies and Administrative Regulations;

To investigate criminal activity committed on or adjacent to school property or in school facilities or transportation vehicles within city limits;

To answer questions that students may have about State, Federal, or Local laws;

To assist other law enforcement officers with outside investigations concerning students attending the school(s) to which the SRO is assigned;

To provide security for special school events or functions, such as school meetings, at the request of the principal; and

Section VII: Chain of Command

As employees of the TCPD, the SRO shall follow the chain of command as set forth by TCPD leadership. In the performance of their duties, the SRO shall coordinate and communicate with the principal or the principals' designee.

Section VIII: Training/Briefing

The SRO shall be required by the TCPD to attend training and/or briefing sessions. These sessions will be held at the direction of the TCPD and any time spent in these sessions shall be considered time worked under this agreement.

Training sessions will be conducted to provide the SRO with appropriate in-service training as required by law. The TCMS also may provide training to the SRO on Board of Education policies, regulations and procedures.

Section IX: Dress Code, Supplies and Equipment

TCPD shall provide the SRO uniforms/equipment/department assigned vehicle. In addition, the TCPD agrees to:

Maintain the vehicles assigned to SROs; pay for gasoline, oil, replacement tires and other expenses associated with the operation of the said vehicles; and purchase and maintain comprehensive general auto liability insurance on the said vehicles.

TCPD agrees to provide the standard issue pistol and rounds of ammunition for each SRO. TCMS agrees to provide the SRO with the usual and customary office supplies at each school site as needed in the performance of their duties.

Section X: Transporting Students

It is agreed that the SRO shall not transport students in their vehicles except when the students are victims of a crime, under arrest, or some other emergency circumstances exist; and when students are suspended/expelled and sent home from school pursuant to school disciplinary actions if the student's parent or guardian has refused to pick-up the child within a reasonable time period and the student is disruptive/disorderly and his/her continued presence on campus is a threat to the safety and welfare of other students and school personnel.

In cases where the parents refuse to pick up the student, the SRO shall contact the Children, Youth and Families Department to inform them of the situation and arrange proper care for the student. If the student to be transported off campus is not under arrest, a victim of a crime, or violent or disruptive, the TCMS school administration shall provide transportation for the student and the SRO may accompany a school official in transporting a student.

If feasible and when able to, the SRO shall notify the school principal or appropriate school official about a student needed to or being removed from campus.

Section XI: Investigation, Interrogation, Search and Arrest Procedures

The SRO shall adhere to the standard operating procedures (SOP) for the investigation of crimes and interrogation, search and arrest of students as written by TCPD policies, procedures, and state law.

Section XII: Search Procedures

If the school official has reasonable grounds for suspecting that a search of a student or a student's possessions will uncover evidence that the student has violated or is violating either the law or the rules of the school, the school official may search the student and the student's pockets, pocketbook, book bag, desk, locker, vehicle or any other similar location within the student's control. If the search uncovers evidence of criminal misconduct, the evidence shall be turned over to the SRO. SRO may search a student or the student's possession including a vehicle only when probable cause to apply and obtain a search warrant, obtaining owner consent, and/or other exceptions to the search warrant rule such as but not limited to plain view doctrine, search incident to arrest, or exigent circumstances.

Section XIII: Controlled Substances

School officials shall notify the SRO in all cases involving the possession, sale or distribution of controlled substances at school or school activities. Any controlled substances or suspected controlled substances confiscated by school officials shall be turned over to the SRO for further investigation and custody.

Section XIV: Access to Education Records

School officials shall allow SROs to inspect and copy demographic records (i.e.; name, date of birth, address, phone number, parental information, grade, school photograph) as maintained by the school. However, law enforcement officials may not inspect and/or copy confidential student education records except in emergency situations.

If some information in a student's cumulative record is needed in an emergency to protect the health or safety of the student or other individuals, school officials may disclose to the SRO that information which is needed to respond to the emergency situation based on the seriousness of the threat to someone's health or safety; the need of the information to meet the emergency situation and the extent to which time is of the essence.

If confidential student records information is needed, but no emergency situation exists, the information may be released only upon the issuance of a search warrant or subpoena to produce the records.

Section XV: Term of Agreement

The term of this agreement is one year from the day and year first written above. The Agreement shall be renewed and extended annually for additional and successive one-year terms unless notice of nonrenewal is given by either party, in writing, with at least a 60 day notice.

Section XVI: Insurance and Indemnification

Each party agrees that it shall be responsible for liability arising from personal injury or damage to property occasioned by its own agents or employees in the performance of this agreement, subject in all cases to the immunities and limitation of the New Mexico Tort Claims Act (NMSA 1978, Section 41-4-1, et seq.) and any amendments thereto. This section is intended only to define the liabilities between the parties hereto and it is no intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The parties and their "public employees," as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, and do not waive any defense or limitations of liability pursuant to law. No provision in this agreement modified and/or waives any provision of the New Mexico Tort Claims Act.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date noted below:

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY:

School Attorney

TRUTH OR CONSEQUENCES
MUNICIPAL SCHOOLS BOARD



School Board President

ATTEST:

Date: 6/21/2022



Superintendent

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY:



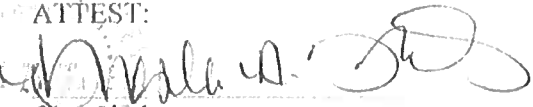
City Attorney

TRUTH OR CONSEQUENCES
CITY COMMISSION



Mayor

ATTEST:



City Clerk

Date: 6/22/22



City Manager



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.1

SUBJECT: Final Adoption of Ordinance No. 735 Amending Section 14-48 pertaining to the Customer Generated Renewable Energy Program

DEPARTMENT: City Manager's Office

DATE SUBMITTED: October 21, 2022

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

A Public Hearing was held during the October 12, 2022 City Commission Meeting. After the hearing, the item was tabled due to the fact that only 3 Commissioners were present at the meeting. The public hearing has already taken place so this is a continuation of the discussion and possible action.

Recommendation:

Final Adoption of Ordinance No. 735.

Attachments:

- Ordinance No. 735
- -

Fiscal Impact (Finance): N/A

-

Legal Review (City Attorney): Yes

-

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☒ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. 735

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

☐ Approved ☐ Denied ☐ Other: [Click here to enter text.](#)

File Name: CC Agendas 10-26-2022

ORDINANCE NO. 735

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES, BE AMENDED BY AMENDING SECTION 14-48 PERTAINING TO THE CUSTOMER GENERATED RENEWABLE ENERGY PROGRAM:

Sec. 14-48. Customer generated renewable energy program shall be amended in its entirety to read as follows:

a) CUSTOMER GENERATED RENEWABLE ENERGY PROGRAM

1) Overview

- a. The City of Truth or Consequences (City) Customer Generated Renewable Energy Program is available to any City electric customer, residential or commercial, that installs a qualified renewable energy system and has it interconnected to the City's power grid. A Qualifying Facility means a cogeneration or a small power production facility which meets the criteria for qualification contained in 18 C.F.R. Section 292.203, or such other criteria as may be reasonably prescribed by rule by the City. Application is to be made to the Electrical Department Director. Blank application copies can be obtained from the electrical department or on the City website. All supporting technical, design and support documentation for the interconnection application must be submitted in writing via hard copy or electronic format. System design and size must be reviewed and approved by the T or C Electric Department Director and receive a Zoning approval permit:
 - i. The standards and procedures as described in Rule 17.9.568 NMAC and the most recent version of the New Mexico Interconnection Manual as approved by the Public Regulatory Commission.
 - ii. Provisions of Sec. 14-33, tampering with meters, of the City of Truth or Consequences, existing municipal code.
- b. The City reserves the right, but not the duty, to inspect any system to ensure the system complies with all existing regulations, or regulations in effect at the time of installation.
- c. The City reserves the right to deny interconnection for non-compliant systems. Denial of a customer's interconnection application can be appealed to the City's Electric Department Director. The appeal must specifically explain the basis of the appeal. If the City's Electric Department Director denies the appeal, the customer may appeal to the City Manager. If the City Manager denies the appeal, the customer may appeal to the City Commission. In such event, the procedure shall be in accordance with the rules applicable to 14-30 (e) appeals.

2) Applicability

- a. This ordinance applies to any customer of the City of Truth or Consequences Electric Department that installs a solar, wind or other renewable energy system to generate electricity for onsite use, with the intent of reducing their electric bill.
- b. This ordinance does not apply to any entity that constructs a system for the sole purpose of generating electricity to be sold to the Electric Department or any other entity.

3) Metering

- a. Customers participating in the customer generated renewable energy program will be billed monthly from a bi-directional or net main meter at the specific facility or residence. The monthly bill will reflect a net reading which will show customer usage in excess of customer generation as positive kWh, or customer generation in excess of customer usage as negative kWh. The customer will be billed per existing City of Truth or Consequences municipal code Sec. 14-43 for installation of the net meter by the City and those costs will be billed to the customer on the first billing cycle post net meter installation.

4) Rates

- a. Residential and small non-residential installations.
 - i. Definition: This category includes systems of any size supporting a single family home, a single dwelling unit in a multifamily structure with its own electric meter, or any non-residential system with a generating capacity less than or equal to 10 kilowatts.
 - ii. Customers will be billed for service in accordance with the rate structure and monthly service charges that the customer would be assigned if the customer had not interconnected a qualifying facility.
 - iii. Customer kilowatt hour generation will be used to displace a customer's own kilowatt hour consumption.
 - iv. If electricity supplied by the City exceeds the electricity generated by the customer during a billing period, the customer will be billed for the net energy supplied by the City under the applicable rate.
 - v. If electricity generated by the customer exceeds the electricity supplied by the City during a billing period, the City will credit the customer for the excess kWh generated at the average wholesale cost paid by the electric department. This credit will be first applied against the monthly Customer Fee. Any remaining credit will be carried over to the next billing period.
 - vi. Each year, at the January billing, any credit in excess of \$20.00 on the customer's

account after current charges are paid shall be refunded to the customer. If the credit amount is less than \$20.00, the credit will be carried over to the next billing cycle.

- vii. In the event a customer disconnects from the City's system with a credit for excess production, the City will pay the customer for all credits. This amount will be first deducted from the customers final utility bill and then from any additional fees or fines that the customer owes to the City. Any remaining balance will be reimbursed to the customer by check or electronic transfer.
- b. Large non-residential installations.
- i. Definition: This category includes systems with a generating capacity greater than 10 kilowatts that support a non-residential facility.
 - ii. Customers will be billed for service in accordance with the rate structure and monthly service charges that the customer would be assigned if the customer had not interconnected a qualifying facility.
 - iii. Customer kilowatt hour generation will be used to displace a customer's own kilowatt hour consumption.
 - iv. If electricity supplied by the City exceeds the electricity generated by the customer during a billing period, the customer will be billed for the net energy supplied by the City under the applicable rate.
 - v. If electricity generated by the customer exceeds the electricity supplied by the City during a billing period, the City will credit the customer for the excess kWh generated at the average wholesale cost paid by the electric department. This credit will be first applied against the monthly Customer Fee. Any remaining credit will be carried over to the next billing period.
 - vi. Each year, at the January billing, any credit in excess of \$20.00 on the customer's account after current charges are paid shall be refunded to the customer. If the credit amount is less than \$20.00, the credit will be carried over to the next billing cycle.
 - vii. In the event a customer disconnects from the City's system with a credit for excess production, the City will pay the customer for all credits. This amount will be first deducted from the customers final utility bill and then from any additional fees or fines that the customer owes to the City. Any remaining balance will be reimbursed to the customer by check or electronic transfer.
- c. The average wholesale cost of electricity shall be calculated annually and is defined as the total cost of the electricity, including demand charges, transmission costs and GRT divided by the total number of kilowatt hours purchased by the electric department in a given fiscal year.
- d. The monthly Customer Fee for cogenerating customers will be set by Resolution:

- e. On the first utility billing cycle in January of each year, all existing credits in cogenerating customers' accounts shall be refunded to the customers.
- f. The City reserves the right to reduce or terminate its acceptance of electricity generated by customers in the event that the total amount of electricity generated and offered at any given time exceeds the amount that can be put to use.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS. CITY COMMISSIONERS OF THE CITY OF TRUTH OR CONSEQUENCES:

Section 1. All Ordinances or Resolutions, or parts thereof, in particular Ordinance 664, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution or part thereof, heretofore repealed.

Section 2. This Ordinance shall take effect on the 17th day of October, 2022.

PASSED, APPROVED AND ADOPTED this 12^h day of October, 2022.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

BY: _____
Amanda Forrister, Mayor

ATTEST:

Angela A. Torres- City Clerk



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.2

SUBJECT: Multi-Animal Special Use permit for 865 W 4th Avenue

DEPARTMENT: Assistant City Manager

DATE SUBMITTED: October 20, 2022

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez

Summary/Background:

Public Hearing was held at Planning and Zoning Commission Meeting on 10-11-2022. Applicant was present. Draft meeting minutes attached for reference. Applicable section highlighted. Applicant has 7 cats. Cats are contained either in the house or within an outdoor "catit" and do not roam free. Applicant has submitted a completed application, all animals have been licensed per municipal code, and all fees have been paid. Animal Control and Code Enforcement have completed required site visit. No opponents. 2 Proponents.

Recommendation:

Planning and Zoning recommendation: Vice-Chairman Buhler made a motion to recommend to the City Commission that we approve Ms. Pryor's special use permit. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

Attachments:

- Planning and Zoning Agenda Packet
- Draft Meeting Minutes

Fiscal Impact (Finance): N/A

Legal Review (City Attorney): Yes

Approved For Submittal By: ☐ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action –Multi-Animal Special Use Permit for 865 W 4th Avenue

BACKGROUND:

Applicant has submitted an annual renewal application request for 7 Felines. Animal Control and Code Enforcement have inspected the residence and approved the application request.

Per Ordinance 725

It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit. Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit. All applications shall undergo a special use permit process. Permits will be reviewed for renewal annually. No more than seven animals in any combination are allowed for multi-animal permits. Multi-Animal Permit requires annual renewal.

SUPPORT INFORMATION:

Application
Location Map
Ordinance 725

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

CITY OF TRUTH OR CONSEQUENCES KENNEL/MULTI-ANIMAL PERMIT APPLICATION

Date: AUGUST 1, 2022

Applicant: Geneva Pryor

Property Address: 865 W. 4th Ave. Tor C., NM 87901

Phone Number: (575) 440-3082

Phone Number: (575) 440-3083 Business license number (if applicable):

Type of license: Kennel Permit

Type of license: Kennel Permit X Multi-Animal Permit

TYPE	GENDER	AGE	BREED	COLOR	NAME	CITY LIC#	EXP DATE	RABIES TAG #	EXP DATE
Cat	M		Shorthair	Tabby	Chaps	85	12/9/24		12/9/24
}	M		Longhair	" "	Stormy	86	12/1/24		12/1/24
	F		Shorthair	Blk/Wh	Katy	87	12/9/24		12/9/24
	F		" "	Black	Suzie	88	1/13/25		1/13/25
	F		" "	Black	Lilly	93	4/12/25		4/12/25
	F		Tuxedo	Blk/Wh	Tina	94	2/24/25		2/24/25
	F		Manx	Gray	Rose	99	7/19/25		7/19/25
	}			}	}	}	}		}

Proof of payment, rabies vaccinations, and city animal/business licenses must accompany application

Applicant Signature:

ON SITE INSPECTION (A=Acceptable or U=Unacceptable)

- ☒ Enclosure/fencing type/gates/latches/pens sufficient to prevent escape/proper confinement.
- ☒ Adequate habitat space necessary for each animal's movement.
- ☒ Animal(s) habitat is sanitary, good condition (weatherproofing), ventilated/heated, and accessible.
- ☒ Animal(s) have access to protection from weather.
- ☒ Sufficient fresh clean/sanitary potable water and food/sufficient access for each animal.
- ☒ Property is clean/sanitary and free of hazards/trash/debris and not dangerous to animal(s).
- ☒ Property size is adequate for the number of animal(s) allowing for compliance as noted above.
- ☒ Property has the following conditions that require immediate attention:

Inspected by Officer: Mary Anne NiGiac Signature

Date: 9-7-72 Jamie Sweeney

Planning and Zoning Commission Meeting Date:

City Commission Meeting Date:

City Planning and Zoning Designated Administrator Signature:

Rec# R0021990

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact me at (575) 894-6675 or by email at aatorres@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 23, 2022

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 12/20/2021
Tag No. 85
Exp. Date 12/9/2024

Animal

Name Chaps
Breed Domestic Shorthair
Color Tabby Sex M S/N N
Vaccinated 12/01/2021

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH
CHECK \$5.00 #1753
Receipt No. R00246520

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 12/20/2021
Tag No. 86
Exp. Date 12/1/2024

Animal

Name Stormy
Breed Domestic Long Hair
Color Tabby Sex M S/N N
Vaccinated 12/01/2021

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH
CHECK \$5.00 #1753
Receipt No. R00246520

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 12/20/2021
Tag No. 87
Exp. Date 12/9/2024

Animal

Name Katy
Breed Domestic Shorthair
Color Black & White Sex F S/N S
Vaccinated 12/01/2021

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH
CHECK \$5.00 #1753
Receipt No. R00246520

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 1/26/2022
Tag No. 88
Exp. Date 1/13/2025

Animal

Name Suzie
Breed Domestic Shorthair
Color Black Sex F S/N S
Vaccinated 01/13/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK

Receipt No. R00250813

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave.
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 4/18/2022
Tag No. 93
Exp. Date 4/12/2025

Animal

Name Lilly
Breed Domestic Shorthair
Color Black Sex F S/N S
Vaccinated 04/12/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK

Receipt No. R00259960

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave.
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 4/18/2022
Tag No. 94
Exp. Date 2/24/2025

Animal

Name Tuxi
Breed Tuxedo
Color Black & White Sex F S/N S
Vaccinated 02/24/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. R00259960

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Geneva Pryor
Address 865 W. 4th Ave.
City T or C State NM ZIP 87901
Phone (575) 640-3083

Misc

Date 7/20/2022
Tag No. 99
Exp. Date 7/19/2025

Animal

Name Rose
Breed Manx
Color Gray Sex F S/N S
Vaccinated 07/19/2022

Qty	Description	Unit Price	TOTAL
1	Cat License	\$ 5.00	\$ 5.00
		TOTAL	\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. R00270728

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

DATE : 8/1/2022 12:53 PM
OPER : CL
TKBY : CL
TERM : 9
REC# : R00271990

ANPHD ANIMAL POUND FEES 25.00
SPECIAL PERMIT- PRYOR- KENNEL PERMIT
2
101-1099-34343 -25.00

Check 25.00 REF:1737

APPLIED	25.00
TENDERED	25.00

CHANGE	0.00
--------	------



PLANNING AND ZONING COMMISSION

FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
AGENDA
TUESDAY, OCTOBER 11, 2022**

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Tuesday, October 11, 2022 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Eduardo Alicea, Member was absent

ALSO PRESENT:

Bruce Swingle, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela Torres, City Clerk
Lisa Gabaldon, Deputy Clerk

1. APPROVAL OF AGENDA:

Vice-Chairman Buhler made a motion to approve the agenda. Member Luchini seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a. September 12, 2022:

Vice-Chairman Buhler made a motion to approve the minutes. Member Luchini seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC (3 Minute rule applies):

Carl McCleskey, 1751 Caballo Rd, stated that he is there to represent a couple of little old ladies that live in his trailer park in regards to a multi-animal permit for a house directly across the street from him. The ladies are both on oxygen and on hospice, and he would love for them to not have to put up with barking. He has tried to remove the noisy tenants from his trailer park to accommodate them and he would just like for them to have some peace and quiet. This is reference to 300 Osborne. Deputy Clerk Gabaldon advised Mr. McCleskey that he would need to speak on this item during the public hearing and not during public comment.

City Attorney Rubin advised that now is the time to speak about things that are not pertaining to the public hearings.

City Attorney Rubin introduced himself and stated that he thought it would be helpful if he showed up for this meeting. We have new board members and I just want to make a few general comments about public hearings and how we have done them traditionally that work well. The supreme court of New Mexico has decided some time ago, that when you're dealing with land issues, such as variances or special use permits, plat amendments, etc., that you are required to hold a quasi-judicial hearing; it's not a formal trial but you are required to actually have a formal hearing like we're having today and sworn testimony is actually taken. It doesn't necessarily have to be a highly formal process, but we had a procedure that we used in the past, which actually has been very helpful, so let me explain what we have done at past public hearings and hopefully if this commission decides that this is something that you feel comfortable with, then you can adopt that. We usually call upon staff to testify first and it may be Ms. Alvarez who will give a little bit of an introduction as to what the matter is all about. After she testifies, then the commission can ask her questions and anybody who is a party to this transaction can also ask questions. After the staff testifies, then we have proponents and opponents. What I would like to recommend, is to find out when someone is prepared to speak ask them what their interest is in the process. Is this somebody who actually, for example, maybe they're a proponent; maybe it's the person who is actually the applicant, or if they're an opponent, are they someone who is within 300 feet of where the property that's located that is the subject of our case today, or does that person have some financial interest in the outcome of how this matter goes. If someone actually wishes to speak and even if they sign up as a proponent or opponent but they don't really have that interest that I've described, they're really not recognized as a party but they do have the right to testify as a member of the public at the end of the testimony, so again what I'm suggesting is after the staff testifies and we have the proponent testify; after the proponent testifies then the commission can ask questions, the opponents can ask questions, and then we do the same process for the opponents. That's how it works. And at the end, we have the public members that can testify also. I always like to be very careful with these matters when you have proponents and opponents because the case could wind up either in contested to the City Commission level or even wind up sometimes in a court hearing. I happened to take a peek at the sign-up sheet before the Clerk Angela took it, and I saw on the first one that we don't have any opponents, is that correct?

City Clerk Torres answered that is correct, we only have proponents on the first one for 865 W. 4th. For 300 Osborne, we have 1 proponent and 2 opponents. For 403/405 Magnolia, we have a member of the public that would like to speak on that. And then for 719 Palo Verde, we have a proponent on that one.

City Attorney Rubin: In cases when there are opponents, sometimes I would just suggest to the board to maybe shorten the process is that you don't let all of the proponents testify, especially if their talk is going to be cumulative, but since this is our first public hearing with the new board, why don't we go ahead and go through the process and let all of the proponents and opponents who signed up to testify tonight. With that being said, if you have any questions about what I've mentioned.

Chairman Sisney thanked Mr. Rubin.

City Clerk Torres: If there's anybody who signed up as a proponent or an opponent, if you could please stand up so that we can swear everybody in at one time.

Do you swear to tell the truth, the whole truth, and nothing but the truth?

Everyone answered YES.

City Clerk Torres thanked them.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

a. Public Hearing/Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager:

City Clerk Torres: So, we'll start with our first public hearing; it is for a request for a special use permit at 865 W. 4th Ave for the purpose of a multi animal permit. What we're going to do is, I will call on our Assistant City Manager Ms. Alvarez to speak and then after she does her testimony, we will open the public hearing and then we can have our proponents and opponents speak at that time. And everybody will get 5 minutes.

Assistant City Manager Alvarez: Chairman and members of the board, included in your packet you have the new animal ordinance and within there in section 3.8.1 I highlighted the multi animal site permit/kennel permit section. This will be the first time that we've gone through the multi animal permitting process and so because of that, I do want to let you know that, we do have our ACO as well as our code enforcement officer, they'll be here and I'll give them an opportunity to speak shortly. They're the ones that go out for the applications and do the inspections, and I'll let them speak to you in regards to what they look at. They won't necessarily attend every single hearing, but I wanted to give you guys and opportunity to see what they do out in the field so that you're comfortable knowing that when this packet comes to you, everybody has done their due diligence. The first request is for 865 W. 4th; the applicant has submitted an annual renewal application for a request for 7 felines. Per our municipal code, you're only allowed to have 4 animals in any combination thereof or you have to go out for a special use permit. If I could have ACO Digicomo and code enforcement officer Jamie Sweeney, I'm going to let them speak on what they do when they go out to inspect an applicant.

ACO Digicomo: When we go out there, what I do is as an animal control officer, I go out there and I do an inspection. I check for enclosure, fencing type, gates, latches, pens are sufficient so that the animal don't escape. We look at the weather proofing, ventilation, make sure that they have clean, sanitary potable water, food is sufficient and everything is sanitary and clean, free from debris hazards and adequate space for the amount of animals for the space. Just kind of stuff like that; we go out and we check the perimeter and make sure that no one can escape and the conditions and the environment for the animal.

Code Enforcement Officer Sweeney: My job is to enforce everything within the municipal code; that's to include animal control if I need to. So with these checks, we also kind of combine a little bit. So I will go out, she has a list that she goes off of to make that these ok but then I will go out also, because if a yard is dirty it can create even a hazard for the animals; so that may not be on her checklist but that's on my checklist when it comes to the municipal code. So we kind of combine a little bit so if they meet everything on her list, they also need to meet everything within the municipal code that I deal with and we just kind of come together to both do these checks when it comes to that. So, that's what we do together.

ACO Digicomo: They both have to pass on both of our ends before it gets approved.

Code Enforcement Officer Sweeney: So with this one we went over there, she had everything matched up for animal control and she had everything matched for code enforcement, but I even went a step further to make a recommendation because of the area that she lives in, she lives closer to a very isolated desert area and the way she had her nice little set up, the fencing around the little enclosure she had was kind of big for a snake to go through. So I mentioned because she had little cats like to play and they like to hide and so she had these little boxes set up, but my concern was that a snake could get in there and kind of hide in these little crevices and could potentially be a danger to her and her animals. So I even went a step further, we noticed that she had this chicken wire so I was like as a recommendation, I would even put it up. She didn't have to, but she did and she had some wood kind of down and she had said that she wanted to build later on a further fence, not at the time that we were there but somewhere in the future and so I had mentioned that even with the snakes that if she could just set the wood up and she did that; again this was just a recommendation, it wasn't against code. She sent us pictures within a week and she had all of this completed so for us, she passed the inspection.

Chairman Sisney: Thank you

Assistant City Manager Alvarez: Chairman and members of the board, applicant has submitted a completed application, all animals have been licensed per municipal code, and all fees have been paid, and applicant is requesting approval of their special use permit; and with that, we can go proponents and opponents.

City Attorney Rubin: Well, actually I think that the board members first would have the right to ask questions if they wish to.

City Clerk Torres handed the sign-in sheets to Chairman Sisney and advised him to call on each person one by one and then after they have spoken, then we'll ask if there is anyone else that would like to speak that has not signed up.

Chairman Sisney called for Geneva Pryor to come up to the podium.

Geneva Pryor: Hi, I'm Geneva Pryor, I'm the applicant and I have 7 cats. I've had them; I only had 2 and I took on another cat that dumped and her kittens. Six of mine would either have been feral; one would have been a stray, one I got from the pound. I had no intention of getting 7; I have no intention of getting more. I've had 7 for well over a year; they've been under the kennel license and animal control has been inspecting and has always approved the catit at but the really nice thing this time is when code enforcement officer, when she came, she realized that I had potentially a snake hazard and nobody had mentioned it and it hadn't occurred to me. The next day I was putting up the chicken wire so there's no chance that a snake could get into the catit at and immediately corrected the wood thing; the wood thing is a temporary thing anyway, but I made the corrections immediately because I don't want any threat to my animals. They're confined 100% of the time in my house and in the catit at. I have triple latching on the door of the catit at; they haven't been off of my property. I have some neighbors here who will tell you that they never see them. The catit at is kind of concealed behind the privacy fence and then there's also kind of a drape on it, so you don't see them. They're all neutered, the males, so they don't howl, they don't make noise, you know, they don't bother anybody. They get 100% shots, Leukemia, Rabies always on time. They get vet care; I won't bat an eye at spending \$1000 on a vet bill if necessary for them. They're my family and I'd like to keep them. I'm a business owner in town; I have a home based business, I'm a top rated eBay seller and I'd hate to have to move because you know they're my family and I don't want to have to give them up. They don't bother anybody, you know and I

believe in trying to fix the problem and not make it worse. I don't breed animals and I won't bring in anymore, I have kind of a smallish house. I don't want to take up too many peoples times but just to say that I've always passed the inspections, and if they wanted any little changes, I've always made them and I'll continue to do that. I'll continue to get inspected and I just don't think that there's any reason I shouldn't be able to have them because they're quiet and they bother anybody. Thank you for your time, I appreciate it. A couple of the people who will come up are neighbors and they can speak as to whether the cats have ever been any kind of issue. Thank you very much for your time.

City Attorney Rubin: Ms. Pryor, the board might have some questions for you.

Chairman Sisney: Does anyone have any questions?

Vice-Chairman Buhler: No

Member Luchini: How long have you had this number of cats?

Geneva Pryor: It's a bit over a year; I had the old kennel permit. I took on the mother cat and some of her kittens. She got dumped at the campground in Williamsburg. And for a time, I thought that I was gonna be rehoming them but I just couldn't find homes. And then once I realized that I can't get homes and there's a neighbor that has birds and we didn't want an issue with the cats going over and killing, you know, going after the birds or anything. They were out for a time, but then I quickly got them locked up. It's been, since I had...I had 2 for quite a while, I don't remember how long I had them but, I probably had them for 2-3 years. And then I got the other ones from the Williamsburg campground; it's been well over a year though. I think that I got the kennel license for them back in July or August of last year. And they're ok with being locked up; they don't mind it. And I love having them locked up where I don't worry about coyotes or cars or anything. It's not on my agenda to secretly let them out; it's my agenda to keep them safe and secure.

Chairman Sisney: Next we have Susan Stewart

Susan Stewart: I was here for moral support and didn't know that I had to speak if I signed in. I came in support of Eva. We own the property that is directly across the street from her entire property on 4th and I'd just like to say that there's never been any problem with her cats or anything. I mean, smell, she takes pristine care of them and the catitat is really nice. It's shaded, it's got toys and I mean she takes really good care of them.

Chairman Sisney: Ray Dowe

Ray Dowe: I've known Eva ever since we moved back from Roswell 4 years ago. I walk by her house every day. I've never seen anything detrimental to the cats or to the public or anything. I think she should have the opportunity to do this. Thank God the ranchers don't have to go through this.

Chairman Sisney: Thank you. Any questions?

Member Luchini: not for me.

Chairman Sisney: Does anyone else want to speak on the topic? I think we're good.

City Clerk Torres: So you can close the public hearing and then you can call for a motion unless anybody else, anybody on the panel has anything else they would like to say.

Chairman Sisney: Ok, if no one else wants to speak we will close the public comments.

City Attorney Rubin: Before the commission actually deliberates, let me just mention something in general for these hearings. In your packet, there are actually 2 documents that you can use as a guide; again this matter hasn't been tested. There's a Planning and Zoning Commission finds and facts checklist in your packet, which consists of basically set items that you are to be reviewing, anytime anything comes before you. A lot of this won't be applicable; this one is pertaining to animals. Also in your packet is the animal control ordinance; if you look at section 3-8.1, those are for multi animal site permits and kennel permits. It's good to have those in mind as requirements that applicants have to comply with and satisfy you when you vote. I just wanted to get those before you.

Chairman Sisney: Thank you Mr. Rubin.

City Attorney Rubin: At this point you close the public hearing and the commission can deliberate or a motion can be made.

Chairman Sisney: ok, anymore comments?

Carl McCleskey: Where can the ordinance information be found?

Chairman Sisney: All of this is available on the City website, right?

City Attorney Rubin: Yes, it's part of the packet.

Assistant City Manager Alvarez: And it's all part of the packet that's published out prior to the meeting, a week prior to the meeting. But the, I guess, what specifically were you asking?

Carl McCleskey: I just want to know about the noise with the dogs.

Assistant City Manager Alvarez: I think when we get to that public hearing maybe we can address some of those items as we get to those.

City Manager Swingle: Mr. Chairman and member of the board, just a comment that with your special use permit the criteria that you follow for uses of special permit and kind of following your due diligence, finding of facts, conclusions. A2, special use permits, shall not be granted in such cases where the use will result in negative impacts. That's negative impacts to area residents, neighbors, things of that nature or to the community; which substantially outweighs the positive impacts for the proposed use.

City Attorney Rubin: That is very broad wording so that will encompass a lot of the concerns you may have as to the request or anyone else in the audience.

Chairman Sisney: Ok, if there are no more comments, we'll close the public comments and is there anything to be discussed between the board members?

Vice-Chairman Buhler: No, I don't think so, but I think that you've done a good job though.

Vice-Chairman Buhler made a motion to recommend to the City Commission that we approve Ms. Pryor's special use permit. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

b. Public Hearing/Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager:

Chairman Sisney: Next item is a special use permit for 300 Osborne Lane and we have someone that was on the wrong page, so we need to add it onto this one.

City Clerk Torres: And you wanted to be a proponent or an opponent?

Carl McCleskey: I'm against it.

City Clerk Torres: Against it? Ok.

Chairman Sisney: In case it wasn't clear before, what this committee does is make a recommendation and it goes to City council, so whatever we recommend can be changed. Do we have any public comments?

City Clerk Torres: So this one is for a request for a special use permit at 300 Osborne for the purpose of a multi animal use permit.

Assistant City Manager Alvarez: Chairman and members of the board, applicant has submitted an application request for 6 dogs located at 300 Osborne Lane. Application has been completed, the inspection has been completed, and all fees have been paid. Once again, we do have ACO and Jamie Sweeney and they can tell you what they look for at the inspection.

Animal Control Officer Digicomo: With my findings out on the property, everything was ok. There was plenty of room for the 6 dogs and they also have a mud room type thing, it's a doggie door that they can go into the mud room for shelter and also the dogs do sleep in the house at night so that shouldn't cause barking at least during the evening. Everything was ok with me onsite.

Code Enforcement Officer Sweeney: I didn't see any code violations with the property. It was a huge lot and the house sits on a very small portion of that. The running room for the dogs is actually bigger than the house. She did have a boat. I recommended that the trailer needed to be updated. The registration was expired. That was the only thing that I pointed out. They come and go and the only barking that we had heard was when we were leaving. They are dogs. They are going to bark when somebody is coming near their lot, but to us it was not in an aggressive manner. The yard was pretty immaculate with that many dogs. She keeps it pretty clean. With 6 dogs she's going to have to be on top of that and it seemed fine when we did our inspection.

Member Luchini: When do you do an inspection?

Code Enforcement Officer Sweeney: We do an inspection in the front. We haven't done any renewals yet so I don't know if we go out for renewals.

Animal Control Officer Digicomo: Geneva Prior was a renewal, but since we have this new system in place now everything is kind of new. So once the applicant sends the information to the City Clerk's Office, they then in turn send us an email and let us know that they are ready for inspection and we do it surprisingly in a sense because we don't want them to be prepared.

Member Luchini: Will there be any subsequent inspections?

Animal Control Officer Digicomo: Every 3 months we go out and inspect on the ACO side whether it is a multi-animal or kennel permit. We have a spread sheet where we keep track of what is going on when we do go out there.

City Clerk Torres: And they have to renew their permit each year.

Assistant City Manager Alvarez: ACO have you received any complaints that have gone through your offices regarding the noise or animals barking?

Animal Control Officer Digicomo: I have received a barking dog complaint on those dogs. I believe it was just one, maybe two.

City Attorney Rubin: I do recommend since this is a contested battershell the opponents and proponents should be allowed to ask questions of staff.

Chairman Sisney: So, what happens if we approve it and complaints start coming in?

Code Enforcement Officer Sweeney: I think we can site them and when it comes up to the renewal, we can deny it so if we are getting massive complaints, we can site it within the 3 months for sure, and then when the renewal comes up, we can deny it then.

Assistant City Manager Alvarez: If you look at the animal code there is a section pertaining to revocation. It can be revoked if there is justifiable cause.

Chairman Sisney opened the public hearing.

Proponents:

Kameron Gibson: I am the applicant. They are my dogs. Me and my husband moved into that place 6 or 7 months ago. My grandmother was living there. We have 6 dogs. They are all family. We have the mom and dad and 4 of the puppies that we were never able to re-home. They do bark during the day. There are noise ordinances from 7am to 10pm that they are allowed to bark. They are dogs. They sleep inside at night. We have 6 ft fencing up and they have never gotten out. They are up to date on all of their shots. We take them to the vet, and there are a couple of them who have special diets because of emergency surgeries and gastral intestinal issues. These dogs are our family. They are all pretty lazy. They run around the house, and they are inside more than not. They are outside when they are outside and when people come around the fence they bark. There are a few people who will walk and run a stick

down the fence and get them riled up. There are kids that yell at them when they are on their bikes and they do get riled up, but they cannot get out. I have 6 ft fencing up on the inside of the fence that is already around the property.

Member Luchini: Are they spayed and neutered?

Kameron Gibson: They are all fixed, and we do not plan on getting anymore. 6 is enough.

Chairman Sisney: Who is home during the day? If the dogs are going crazy is there anybody to control the dogs.

Kameron Gibson: I am. I work nights. I leave about 2, and normally my husband is home all the time. He is an Elk guide. He does guided hunts. He is gone a lot right now, but he doesn't work so he is normally there everyday all day. My daughter right now with me working comes home at 3:30 pm and she takes care of them until I'm back home at midnight.

Opponents:

Bob Signer: I am a member of Desert Springs Lutheran Church. We are directly across the street from the home in question, and I sympathize with the owner. I am a dog lover too. However, what is happening from our perspective is that we have Wednesday night services and of course Sunday morning services. I am the minister at the church right now so I take part in the services. On Wednesday night we have a service that starts at 5:30 pm and we first noticed the dogs a few weeks ago. I understand that they moved into the property recently because we have never heard the dogs before, but on Sunday morning services and the Wednesday night services is what happens is a car drives by and all dogs come out and start barking. One dog can be heard throughout the neighborhood, but 6 dogs at the same time, we cant hear ourselves in our service. It has turned out to be a major disruption to both services. The dogs bark at cars. It will be quiet; a car will drive by and the dogs start barking again. It is random, but very noticeable disruptions to our service and that is our objection to that many dogs being at a residence in a residential area.

Vice-Chairman Buhler: You have a doggie door and they are allowed to go out whenever they want to?

Kameron Gibson: Except for at night. I lock them in because after 10pm I don't want them being loud because there are a lot of people who walk around all hours of the night and when they see people or cars they bark at them so after 10pm my daughter locks the dog door and they are not allowed back out until the morning. They then go back out in the morning when she leaves to get on the bus. If they need to go out and potty at night I will let them out real quick and then they are right back in between those hours.

John Smith: What Bob said is exactly right, but I would like to say that these two officers here are outstanding, but they have an impossible job. You can drive down 3rd street and I can right 100 tickets if I had her job with code enforcement. The weeds and stuff like that. The problem we've got is when you call animal control they are not always on duty. I think that there are only two animal control officers in town and we are short-handed there and with police officers, and nobody can do anything about it. It continues on. We've got a situation at 1560 E 6th by where he lives and then we go to church and you've got barking dogs at the church. I am like everyone else. I've got 3 dogs and a cat so we are animal lovers and we understand that. We've had problems in our area with a dog that got away and got into one of

our dogs and it killed it, but anyway... they later had to put that dog down so we kind of understand the situation with animals. We are animal lovers, and I have 3 and 1 and that is probably too many 6 to me doesn't make any sense. Why do we have to have 6 dogs. Why do I have to have 3, I suppose you can say the same thing, but mine bark if somebody comes to the door. They don't bark where I am set up, and I probably have more traffic where I live, but they don't bark there so we would just like for you to consider that. We don't want to cause anyone any heartache, but we think 6 dogs are too much.

Member Luchini: How long has this been an issue for you?

John Smith: For me at the church? I don't know? Its been a while. I don't know how long its been? It has been more than once.

Member Luchini: Do you think months?

John Smith: No, I don't think so. I don't know, but we are noticing it more and I don't know if it's because maybe there is more, there are 6 now. I don't know, but it is a problem.

Kameron Gibson: All 6 dogs have been there as long as we've lived there and that was since May.

Bob Signer: I would say it was about 5 Sundays ago. We didn't notice it at first, but for a month and half or a little bit longer during every service we notice the dogs barking.

Carl McKlesky: My concern is that I have two elderly women by there that are both on oxygen and they are confined to their beds. One is entirely to her bed and the other one can move around her house a little bit. They are both short time lifers. They are on hospice. Maybe one expects to live about 3 months or less and the other one 6 months or less. *(To Kameron)* "I've kicked out my noisy residents right there that were barking at your dogs making them bark, and I know that." I got rid of him and took that out of the equation right there and we are still having noise issues. She can't sleep or rest at all. I'm sorry but I just feel that human life is more important than the dog's life. I would like to see the two women have the last few months of their lives in peace and quiet. If you issue this and it goes on and you change it in a year or so they are both going to be dead. They are never going to see that.

City Clerk Torres: I received an anonymous phone call today saying that they are opposed to this as well due to the dogs constantly barking. I have received emails as well. City Attorney Rubin how would we handle that?

City Attorney Rubin: I always like to emphasize live testimony, but of course live testimony is always preferable to phone calls or emails, for several reasons because if someone is here appearing live then we can ask questions or there can be cross examination and that is really what the rules contemplate. Nevertheless, I also pointed out that this is not a formal trial so you can deviate the strict rules and it is really a matter of the discretion of the Commission if they want to consider emails or phone calls. However, live testimony is certainly more entitled to more weight than an email or a letter.

The Commission accepted the emails into testimony.

Clerk Torres stated that the emails are opponents in reference to the 403/405 Magnolia item.

Chairman Sisney: ACO what would happen to the dogs if this is not approved?

Animal Control Officer Digicomo: They may have to re-home some to get down to the permitted amount which is 4 animals.

Vice-Chairman Buhler: That would still be a lot of barking. 4 dogs would be a lot of barking too.

Kameron Gibson: They bark. They're dogs.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend to the City Commission to deny the special use permit. There are too many complaints from the neighbors. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

c. Public Hearing/Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. Traci Alvarez, Assistant City Manager:

Traci Alvarez, Assistant City Manager: In your packet you have the application for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. There are two lots and the applicant is requesting to use one lot as a parking lot and the other lot has a residence on it that they would like to turn into a Community Center for Recovery Meetings. They have submitted letter explaining their request and wishes as well as a map of the area. I have also included a google map of the area so you can get a good visual.

Chairman Sisney opened the public hearing.

The Commission had concerns that the applicant was not present and questioned if they needed to be there to proceed with the hearing.

City Manager Swingle: It wouldn't be a requirement that they be here, but I personally have a lot of questions on this matter in a residential area that I would really like to get addressed, and if you go forward with the hearing, and I'm not saying that you shouldn't, but all of those questions are going to be unanswered and if they were approved today, it would go to the Commission, and if they don't come back at least to the Commission Meeting, I certainly am going to recommend that this be denied because this is a pretty important issue for a residential area.

Chairman Sisney: Can we table the matter and can we table it and still let the opponents speak.

City Attorney Rubin: I think maybe a combination. You can let the opponents speak since they are here, and after you hear from them you can recess this matter to the next meeting if you wish to do that.

Vice-Chairman Buhler: I think we should move forward.

Traci Alvarez, Assistant City Manager: Under the code for special use permits 11-5-6 c it states that Submission requirements. The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following: 1. Location of existing and proposed structures including the dimensions of setbacks; 2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way; 3. Location and treatment of open spaces including landscaping plan and schedule; 4. Lighting; 5. Signage; A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application. It doesn't say in here that the applicant has to show up. I always recommend it, but it is not required. They have submitted all of the necessary paperwork as well as a statement of what they are wanting to do with the property so my recommendation would be to move forward.

City Attorney Rubin: All proper steps have been taken so I am okay with that.

Proponents:

None.

Opponents:

Rhonda Griego: We moved to T or C two years ago. It is our second home. However, it is turning more into my husband's primary home lately, but we are there 15 to 16 days out of the month and the people who live there across the street are quiet. It is a very quiet neighborhood. If they are going to put recovery meetings and stuff there, it is going to increase our traffic. I can tell you that we are right on the corner and people drive extremely fast down Magnolia and on 4th street. That is going to increase our traffic. We're not there 15 days out of the month so we don't know what will happen if it is a recovery center. I have relatives who run a recovery center for teens in Albuquerque and I know a lot of the things that happen behind the scenes and I don't want to come back here and deal with damage, trash, more traffic than what we already see. I don't want to have to deal with that, and being that we're not there we are going to have to put in security cameras so we can see what is happening because we don't know. That is a big concern, plus there is an elderly lady who lives across the street on the opposite corner of us and she is there by herself, and on the other side of her is the church. I am concerned about that as well. We ran into this in Albuquerque as well by our house for a different situation, but when you say its going to be one thing it eventually turns into something else. So if it is a community center there are going to be meetings. Will it turn into a recovery home and now people are staying there. We don't know. We know what the intention is now I guess, because we have limited information, but if it is a recovery center we just don't know what it will turn out to be later on.

Orlando Griego: My concern is that I don't know too much about a recovery center and how much traffic is going to be there, and like you said they are going to make another parking lot there. I mean, its on a residential so it should just stay as residential. The people who are going to start this probably don't live around there so they are not going to have to deal with it, but we are the people who are going to live across from it and who are going to have to deal with it if something goes wrong.

Vice-Chairman Buhler: They listed it as a community center and a community center is for everybody, and that would be everybody who lives around there, and that is not really what it is. It is very strange that they would not be here to speak on their behalf.

City Clerk Torres read the following email: To whom it may concern, I will not be able to attend the public hearing on Tuesday, October 11 regarding the special use permit request at 403/405 magnolia. I have lived in that neighborhood since 1983 it has always been a quiet family-oriented neighborhood. I do not believe that a residential neighborhood is the place for a recovery meeting center. It will bring more traffic to the area and unfortunately more prying eyes. We have grandkids that are always playing outside and we are concerned it may be a safety issue with the different people and traffic in the neighborhood. Thank you I'd like to remain anonymous.

City Clerk Torres read the following email: SUBJECT: Special Use Permit. My understanding is the owner of these two lots is asking for a "Special Use Permit" in an established residential area. One lot for a parking lot and the other lot that has a residential building would be used for a Habitual Recovery meeting center. We are unable to make the meeting tonight, 10-11-2022, but would appreciate the following questions to be addressed since we have a home located on Magnolia. 1) Increased traffic, even though a lot would be cleared for parking (City Lot) it can flow over to the street parking and residents parking spaces. 2) Regarding the lot that has a residence will the use ONLY be for a dedicated meeting center? Will the meetings be designated for evening only, day only or both? And how many meetings? 3) Will it be possible the Residence could be used, once meetings have been established, for short term living, such as, week or a month? Or could part of the established parking have something else placed or built on the lot to be of service to the community meetings? 4) Why has a residential area been chosen for this type of meetings? Being a part-time resident at T or C, we are very knowledgeable of vacant land that could be purchased for these types of meetings that a small building/mobile home could be adaptable on and not in an established residential area. We are sure if we had more time to think about this request, we could survey other residents to see what their concerns or questions are. Unfortunately, we were in T or C the week the certified letter was sent to us at our primary residence. If we were able to vote on this Special Use Permit request our Vote would be No. If this request is passed then it would establish a precedence" to view all requests for Special Use Permits in residential areas. We strongly feel there are other areas that could be used for this purpose.

Chairman Sisney closed the public hearing.

Vice-Chairman Buhler made a motion to recommend to the City Commission to deny the special use permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings because we don't really know anything about it. Member Luchini seconded the motion. Roll call vote was taken.

Chris Sisney, Chairman voted nay. He would like to hear more on this item.

Susan Buhler, Vice Chairman voted aye

Esther Luchini, Member voted aye

Motion carried with a 2-1 vote.

- d. Public Hearing/Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194. Traci Alvarez, Assistant City Manager:**

Traci Alvarez, Assistant City Manager: The applicants wish to eliminate a lot line separating their two parcels at 719 Palo Verde. The amendment does not have the affect to significantly alter any of the utilities, drainage or traffic. In your packet you have the survey that has been submitted showing the elimination of that lot line. There is also a visual on an assessor parcel map that shows the two separated parcels that they would like to conjoin as one. The applicants are in the audience if you have any questions. All adjacent property owners have been notified.

Chairman Sisney opened the public hearing.

Proponents:

Applicants Michael and Linda Sparks: We own two lots. They are almost a half-acre lot and they are zoned R1 which means that we have a 25ft. setbacks, and including the easement it is 37ft. We are wanting to install a carport for an RV and for a car hauler and that is the reason for combining the two lots. You would think with almost a half-acre you would have room, but with the setbacks it makes it almost impossible. The house takes up almost the entire one lot that is on the corner of Palo Verde and 8th and then the adjacent lot is on the other side. We border the street on two sides which makes it a 37 ft. setback and then on the other two sides it is a 25ft. setback.

Opponents:

None.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend approval of the summary plat amendment at 719 Palo Verde. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

5. REPORTS FROM THE BOARD:

Vice-Chairman Buhler: The only thing I have is I think we should all check in when you send us our packet to make sure that we are coming.

6. REPORTS FROM STAFF:

Traci Alvarez, Assistant City Manager: Anytime that we have a public hearing, they do require notification depending on type of public hearing we have to either notify the adjacent property owners within 100ft or 300 ft of the property.

7. ADJOURNMENT:

Chairman Sisney made a motion to adjourn the meeting. Member Luchini seconded the motion. Motion carried unanimously.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.3

SUBJECT: Multi-Animal Special Use permit for 300 Osborn Lane

DEPARTMENT: Assistant City Manager

DATE SUBMITTED: October 20, 2022

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez

Summary/Background:

Public Hearing was held at Planning and Zoning Commission Meeting on 10-11-2022. Applicant was present. Applicable section of draft meeting minutes attached for reference. Applicant has 6 dogs. Completed application has been received and all animals have been licensed per municipal code and fees paid. Animal Control and Code Enforcement have completed required site visit. 1 proponent (applicant), 3 opponents, and phone call received in opposition.

Recommendation:

Planning and Zoning recommendation: Chairman Sisney made a motion to recommend to the City Commission to deny the special use permit. There are too many complaints from the neighbors. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

Attachments:

- Planning and Zoning Agenda Packet
- Applicable section of draft P & Z Meeting minutes (refer to I-2 attachment for draft minutes in their entirety)

Fiscal Impact (Finance): N/A

Legal Review (City Attorney): Yes

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☒ Legal ☐ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text. Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action –Multi-Animal Special Use Permit for 300 Osborn Lane

BACKGROUND:

Applicant has submitted an application request for 6 dogs. Animal Control and Code Enforcement have inspected the residence and approved the application request.

Per Ordinance 725

It shall be unlawful for a property owner, tenant, lessee, or authorized resident of said property, to possess or harbor more than four animals in any combination thereof, three months of age or older on their residential or business premises without a multi-animal site permit. Any person who operates or proposes to operate a residential or commercial multi-animal site shall file an application for a permit. All applications shall undergo a special use permit process. Permits will be reviewed for renewal annually. No more than seven animals in any combination are allowed for multi-animal permits.

SUPPORT INFORMATION:

Application
Location Map
Ordinance 725

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

CITY OF TRUTH OR CONSEQUENCES KENNEL/MULTI-ANIMAL PERMIT APPLICATION

Date: 9-13-22

Applicant: Glenn Gibson

Property Address: 800 Osborne T or C

Phone Number: 520-686-0635 Business license number (if applicable): _____

Type of license: ☐ Kennel Permit ☒ Multi-Animal Permit Initial License ☐ or Renewal ☐

TYPE	GENDER	AGE	BREED	COLOR	NAME	CITY LIC#	EXP DATE	RABIES TAG #	EXP DATE
K9	F	3	Pyrenees mix	golden	Shasta	939	11-9-22	211269	11-9-22
K9	M	1	Collie mix	Brindle	Randy	940	4-18-23	000232	10-9-23
K9	M	4	Collie, Border	Blk/WHIT	Dude	941	4-18-23	000233	4-18-23
K9	F	1	Collie, Border	Tan/WHIT	Dwanes	942	7-12-23	000918	7-12-23
K9	F	1	Pyrenees mix	Blk/WHIT	Sophie	944	7-12-23	000919	7-12-23
K9	F	1	Pyrenees mix	Blk/WHIT	Roxy	943	7-12-23	920	7-12-23

Proof of payment, rabies vaccinations, and city animal/business licenses must accompany application

Applicant Signature: [Signature]

ON SITE INSPECTION (A=Acceptable or U=Unacceptable)

- ☒ Enclosure/fencing type/gates/latches/pens sufficient to prevent escape/proper confinement.
- ☒ Adequate habitat space necessary for each animal's movement.
- ☒ Animal(s) habitat is sanitary, good condition (weatherproofing), ventilated/heated, and accessible.
- ☒ Animal(s) have access to protection from weather.
- ☒ Sufficient fresh clean/sanitary potable water and food/sufficient access for each animal.
- ☒ Property is clean/sanitary and free of hazards/trash/debris and not dangerous to animal(s).
- ☒ Property size is adequate for the number of animal(s) allowing for compliance as noted above.
- ☒ Property has the following conditions that require immediate attention: _____

Inspected by Officer: Animal Control Mary DiGiacomo

Date: 9/21/22

Signature: [Signature]

Planning and Zoning Commission Meeting Date: _____ () Approved () Disapproved

City Commission Meeting Date: _____ () Approved () Disapproved

City Planning and Zoning Designated Administrator Signature: _____

*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact me at (575) 894-6675 or by email at aatorres@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 23, 2022

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 939
Exp. Date 11/9/2022

Animal

Name Shasta
Breed Pyrenees Mix
Color Golden Sex F S/N S
Vaccinated 11/09/2021

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 940
Exp. Date 4/28/2023

Animal

Name Rowdy
Breed Collie, Border Mix
Color Brindle Sex m S/N n
Vaccinated 04/18/2022

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK _____
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 942
Exp. Date 4/18/2025

Animal

Name Dude
Breed Collie, Border Mix
Color Blk/Wht Sex m S/N n
Vaccinated 04/18/2022

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK _____
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 942
Exp. Date 7/12/2023

Animal

Name Dutches
Breed Collie, Border Mix
Color Tan/Wht Sex F S/N S
Vaccinated 07/12/22

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK _____
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 943
Exp. Date 7/12/2023

Animal

Name Roxy
Breed Collie, Border Mix
Color Blk/Wht Sex F S/N S
Vaccinated 07/12/22

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK _____
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

City of Truth or Consequences
505 Sims Street
Truth or Consequences, New Mexico 87901

City: (575) 894-6673 * FAX: (575) 894-7767

License

Customer

Name Glenn Gibson
Address 300 Osborne
City T or C State NM ZIP 87901
Phone (520)686-0635

Misc

Date 9/13/2022
Tag No. 944
Exp. Date 7/12/2023

Animal

Name Sophie
Breed Great Pyrenees Mix
Color Blk/Wht Sex F S/N S
Vaccinated 07/12/22

Qty	Description	Unit Price	TOTAL
1	Dog License	\$ 5.00	\$ 5.00
TOTAL			\$ 5.00

Payment

CASH \$5.00
CHECK _____
Receipt No. _____

Office Use Only:

THANK YOU!

THANK YOU FOR YOUR BUSINESS

Traci Alvarez

From: noreply@tylerhost.net
Sent: Monday, October 3, 2022 10:51 AM
To: Torres, Angela
Subject: Receipt #R00276864

CITY OF TRUTH OR CONSEQUENCES
505 Sims St
Truth or Consequences, NM 87901

DATE : 9/13/2022 12:46 PM
OPER : CL
TKBY : CL
TERM : 9
REC# : R00276864
ANLIC ANIMAL LICENSES
GIBSON-SHASTA-11/9/2022 - ROWDY 4/18/23- DUDE 4/18/2022- DUTCHES - 7/12/23 ROXY-
7/12/2022 SOP 7/23
101-1099-33331 -30.00

ANPND ANIMAL POUND FEES
GIBSON- 300 OSBONE- ANIMAL PERMIT 100.00
101-1099-34343 -100.00

Check 130.00 REF:101



PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

a. Public Hearing/Discussion/Action: Request for a Special Use Permit at 300 Osborne for the purpose of a Multi Animal Permit. Traci Alvarez, Assistant City Manager:

Chairman Sisney: Next item is a special use permit for 300 Osborne Lane and we have someone that was on the wrong page, so we need to add it onto this one.

City Clerk Torres: And you wanted to be a proponent or an opponent?

Carl McCleskey: I'm against it.

City Clerk Torres: Against it? Ok.

Chairman Sisney: In case it wasn't clear before, what this committee does is make a recommendation and it goes to City council, so whatever we recommend can be changed. Do we have any public comments?

City Clerk Torres: So this one is for a request for a special use permit at 300 Osborne for the purpose of a multi animal use permit.

Assistant City Manager Alvarez: Chairman and members of the board, applicant has submitted an application request for 6 dogs located at 300 Osborne Lane. Application has been completed, the inspection has been completed, and all fees have been paid. Once again, we do have ACO and Jamie Sweeney and they can tell you what they look for at the inspection.

Animal Control Officer Digicomo: With my findings out on the property, everything was ok. There was plenty of room for the 6 dogs and they also have a mud room type thing, it's a doggie door that they can go into the mud room for shelter and also the dogs do sleep in the house at night so that shouldn't cause barking at least during the evening. Everything was ok with me onsite.

Code Enforcement Officer Sweeney: I didn't see any code violations with the property. It was a huge lot and the house sits on a very small portion of that. The running room for the dogs is actually bigger than the house. She did have a boat. I recommended that the trailer needed to be updated. The registration was expired. That was the only thing that I pointed out. They come and go and the only barking that we had heard was when we were leaving. They are dogs. They are going to bark when somebody is coming near their lot, but to us it was not in an aggressive manner. The yard was pretty immaculate with that many dogs. She keeps it pretty clean. With 6 dogs she's going to have to be on top of that and it seemed fine when we did our inspection.

Member Luchini: When do you do an inspection?

Code Enforcement Officer Sweeney: We do an inspection in the front. We haven't done any renewals yet so I don't know if we go out for renewals.

Animal Control Officer Digicomo: Geneva Prior was a renewal, but since we have this new system in place now everything is kind of new. So once the applicant sends the information to the City Clerk's Office, they then in turn send us an email and let us know that they are ready for inspection and we do it surprisingly in a sense because we don't want them to be prepared.

Member Luchini: Will there be any subsequent inspections?

Animal Control Officer Digicomo: Every 3 months we go out and inspect on the ACO side whether it is a multi-animal or kennel permit. We have a spread sheet where we keep track of what is going on when we do go out there.

City Clerk Torres: And they have to renew their permit each year.

Assistant City Manager Alvarez: ACO have you received any complaints that have gone through your offices regarding the noise or animals barking?

Animal Control Officer Digicomo: I have received a barking dog complaint on those dogs. I believe it was just one, maybe two.

City Attorney Rubin: I do recommend since this is a contested battershell the opponents and proponents should be allowed to ask questions of staff.

Chairman Sisney: So, what happens if we approve it and complaints start coming in?

Code Enforcement Officer Sweeney: I think we can site them and when it comes up to the renewal, we can deny it so if we are getting massive complaints, we can site it within the 3 months for sure, and then when the renewal comes up, we can deny it then.

Assistant City Manager Alvarez: If you look at the animal code there is a section pertaining to revocation. It can be revoked if there is justifiable cause.

Chairman Sisney opened the public hearing.

Proponents:

Kameron Gibson: I am the applicant. They are my dogs. Me and my husband moved into that place 6 or 7 months ago. My grandmother was living there. We have 6 dogs. They are all family. We have the mom and dad and 4 of the puppies that we were never able to re-home. They do bark during the day. There are noise ordinances from 7am to 10pm that they are allowed to bark. They are dogs. They sleep inside at night. We have 6 ft fencing up and they have never gotten out. They are up to date on all of their shots. We take them to the vet, and there are a couple of them who have special diets because of emergency surgeries and gastral intestinal issues. These dogs are our family. They are all pretty lazy. They run around the house, and they are inside more than not. They are outside when they are outside and when people come around the fence they bark. There are a few people who will walk and run a stick down the fence and get them riled up. There are kids that yell at them when they are on their bikes and they do get riled up, but they cannot get out. I have 6 ft fencing up on the inside of the fence that is already around the property.

Member Luchini: Are they spayed and neutered?

Kameron Gibson: They are all fixed, and we do not plan on getting anymore. 6 is enough.

Chairman Sisney: Who is home during the day? If the dogs are going crazy is there anybody to control the dogs.

Kameron Gibson: I am. I work nights. I leave about 2, and normally my husband is home all the time. He is an Elk guide. He does guided hunts. He is gone a lot right now, but he doesn't work so he is normally there everyday all day. My daughter right now with me working comes home at 3:30 pm and she takes care of them until I'm back home at midnight.

Opponents:

Bob Signer: I am a member of Desert Springs Lutheran Church. We are directly across the street from the home in question, and I sympathize with the owner. I am a dog lover too. However, what is happening from our perspective is that we have Wednesday night services and of course Sunday morning services. I am the minister at the church right now so I take part in the services. On Wednesday night we have a service that starts at 5:30 pm and we first noticed the dogs a few weeks ago. I understand that they moved into the property recently because we have never heard the dogs before, but on Sunday morning services and the Wednesday night services is what happens is a car drives by and all dogs come out and start barking. One dog can be heard throughout the neighborhood, but 6 dogs at the same time, we can't hear ourselves in our service. It has turned out to be a major disruption to both services. The dogs bark at cars. It will be quiet; a car will drive by and the dogs start barking again. It is random, but very noticeable disruptions to our service and that is our objection to that many dogs being at a residence in a residential area.

Vice-Chairman Buhler: You have a doggie door and they are allowed to go out whenever they want to?

Kameron Gibson: Except for at night. I lock them in because after 10pm I don't want them being loud because there are a lot of people who walk around all hours of the night and when they see people or cars they bark at them so after 10pm my daughter locks the dog door and they are not allowed back out until the morning. They then go back out in the morning when she leaves to get on the bus. If they need to go out and potty at night I will let them out real quick and then they are right back in between those hours.

John Smith: What Bob said is exactly right, but I would like to say that these two officers here are outstanding, but they have an impossible job. You can drive down 3rd street and I can right 100 tickets if I had her job with code enforcement. The weeds and stuff like that. The problem we've got is when you call animal control they are not always on duty. I think that there are only two animal control officers in town and we are short-handed there and with police officers, and nobody can do anything about it. It continues on. We've got a situation at 1560 E 6th by where he lives and then we go to church and you've got barking dogs at the church. I am like everyone else. I've got 3 dogs and a cat so we are animal lovers and we understand that. We've had problems in our area with a dog that got away and got into one of our dogs and it killed it, but anyway... they later had to put that dog down so we kind of understand the situation with animals. We are animal lovers, and I have 3 and 1 and that is probably too many 6 to me doesn't make any sense. Why do we have to have 6 dogs. Why do I have to have 3, I suppose you can say the same thing, but mine bark if somebody comes to the door. They don't bark where I am set up, and I probably have more traffic where I live, but they don't bark there so we would just like for you to consider that. We don't want to cause anyone any heartache, but we think 6 dogs are too much.

Member Luchini: How long has this been an issue for you?

John Smith: For me at the church? I don't know? Its been a while. I don't know how long its been? It has been more than once.

Member Luchini: Do you think months?

John Smith: No, I don't think so. I don't know, but we are noticing it more and I don't know if it's because maybe there is more, there are 6 now. I don't know, but it is a problem.

Kameron Gibson: All 6 dogs have been there as long as we've lived there and that was since May.

Bob Signer: I would say it was about 5 Sundays ago. We didn't notice it at first, but for a month and half or a little bit longer during every service we notice the dogs barking.

Carl McKlesky: My concern is that I have two elderly women by there that are both on oxygen and they are confined to their beds. One is entirely to her bed and the other one can move around her house a little bit. They are both short time lifers. They are on hospice. Maybe one expects to live about 3 months or less and the other one 6 months or less. *(To Kameron)* "I've kicked out my noisy residents right there that were barking at your dogs making them bark, and I know that." I got rid of him and took that out of the equation right there and we are still having noise issues. She can't sleep or rest at all. I'm sorry but I just feel that human life is more important than the dog's life. I would like to see the two women have the last few months of their lives in peace and quiet. If you issue this and it goes on and you change it in a year or so they are both going to be dead. They are never going to see that.

City Clerk Torres: I received an anonymous phone call today saying that they are opposed to this as well due to the dogs constantly barking. I have received emails as well. City Attorney Rubin how would we handle that?

City Attorney Rubin: I always like to emphasize live testimony, but of course live testimony is always preferable to phone calls or emails, for several reasons because if someone is here appearing live then we can ask questions or there can be cross examination and that is really what the rules contemplate. Nevertheless, I also pointed out that this is not a formal trial so you can deviate the strict rules and it is really a matter of the discretion of the Commission if they want to consider emails or phone calls. However, live testimony is certainly more entitled to more weight than an email or a letter.

The Commission accepted the emails into testimony.

Clerk Torres stated that the emails are opponents in reference to the 403/405 Magnolia item.

Chairman Sisney: ACO what would happen to the dogs if this is not approved?

Animal Control Officer Digicomo: They may have to re-home some to get down to the permitted amount which is 4 animals.

Vice-Chairman Buhler: That would still be a lot of barking. 4 dogs would be a lot of barking too.

Kameron Gibson: They bark. They're dogs.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend to the City Commission to deny the special use permit. There are too many complaints from the neighbors. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.4

SUBJECT: Special Use permit for 403 & 405 Magnolia St. for the purpose of a Community Center Recovery Meeting Place

DEPARTMENT: Assistant City Manager

DATE SUBMITTED: October 20, 2022

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez

Summary/Background:

Public Hearing was held at Planning and Zoning Commission Meeting on 10-11-2022. Applicant was not present. There are two lots and the applicant is requesting to use one lot as a parking lot and the other lot has a residence on it that they would like to turn into a Community Center for Recovery Meetings. A Letter explaining their request as well as a map of the area was submitted by applicant and presented to the P&Z Board. No proponents; 2 in person opponents, 2 emails received in opposition read aloud during public hearing and noted in draft minutes attached.

Recommendation:

Planning and Zoning recommendation: Vice-Chairman Buhler made a motion to recommend to the City Commission to deny the special use permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings because we don't really know anything about it. Member Luchini seconded the motion. Roll call vote was taken. Chris Sisney, Chairman voted nay. He would like to hear more on this item. Susan Buhler, Vice Chairman voted aye, Esther Luchini, Member voted aye Motion carried with a 2-1 vote.

Attachments:

- Planning and Zoning Agenda Packet
- Applicable section of draft P & Z Meeting minutes (refer to I-2 attachment for draft minutes in their entirety)

Fiscal Impact (Finance): N/A

Legal Review (City Attorney): Yes

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☒ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text](#) Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action – Special Use Permit 403 & 405 Magnolia St. for the purpose of Community Center Recovery Meeting Place.

BACKGROUND:

Letter of Consideration dated 9/14/2022 attached. Property is located in the R-3 District.

SUPPORT INFORMATION:

Letter of Consideration
Location Map
Notice of Public Hearing
Purpose for District

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

9/14/2022.

To: Zoning + Planning Committee.
Truth or Consequences, N.M.

From: Kathaleen A. Adkins.
EKA Trust

Re: Applying for Special Use Permit.
403 + 405 Magnolia St., Tor C, NM.

I, Kathaleen A. Adkins, would like to request a "Special Use Permit" for the property I purchased this year. It is located at 403 and 405 Magnolia Street, Truth or Consequences, New Mexico,

This property will be used as a meeting place for people who are in recovery. The property of 403 Magnolia St. will be cleared and made into off-street parking. The property at 405 Magnolia, currently a residential house will become the Community Center to hold 1 hour meetings.

Thank you for your time and consideration of the matter.

Kathaleen A. Adkins
EKA Trust

403 Magnolia ST

Alley Way

Utility Lines

Utility Pole

Utility Pole

Cinder Block fence

Empty Lot

No Buildings

Clear for off-Street Parking

4th

Magnolia



*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact our Assistant City Manager Traci Alvarez at (575) 952-0565, or by email to talvarez@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 23, 2022

Sec. 11-9-4. - R-3 High Density Residential District.

- A. **PURPOSE.** The R-3 District is intended to accommodate multiple family dwelling units and accessory structures and uses. The District is intended to maintain and protect high density residential development that is characteristic of apartment, townhouses, condominiums and manufactured home subdivisions. This District also permits one and two family homes, modular homes, and manufactured homes.
- B. **DEVELOPMENT STANDARDS.** Development standards and other requirements are provided in Articles X through XIV.
- C. **R-3 PERMITTED USES:** The following uses are permitted by right in R-3 Districts:
1. Accessory Buildings.
 2. Apartments.
 3. Boarding House.
 4. Condominiums (Residential and Professional).
 5. Child Care Center, Nursery or Similar Use: Play areas shall be in accord with state licensing requirements and enclosed with a solid wall or fence five (5) feet in height.
 6. Construction Yard or Building (Temporary Use): Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a sight-obscuring fence at least six (6) feet in height. However, there shall be no fence or wall more than three (3) feet in total height above street-curb located within the clear sight-triangle of a street intersection as defined in this Code.
 7. Dwellings: Single or multi-family units, apartments, townhouses and condominiums.
 8. Garage or Yard Sale or Similar Use: Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.
 9. Greenhouses (Non-Commercial), Garden Sheds, and Tool Sheds: When detached from the main dwelling, such structures are subject to the provisions of Accessory Buildings.
 10. Home for Handicapped, Disabled, Retarded or Retired: Subject to state requirements of the New Mexico Statutes, Section 3-21-1, Paragraph C, as amended. A minimum of two (2) parking spaces must be provided, in addition to one space for each five (5) persons.
 11. Home Occupation.
 12. Manufactured Home Subdivision.
 13. Manufactured Home Park.
 14. Manufactured Homes.
 15. Kennel (Private, Residential).
 16. Private Club or Lodge: Permitted when used in conjunction with non-profit organizations such as Lions Club, Elks Lodge, and the like. Building(s) shall not be located within one hundred (100) feet of an R-1 or R-2 District. Private clubhouses and game rooms are also permitted when used as a part of an apartment, condominium, or townhouse complex, provided such building(s) shall not be located within fifty (50) feet of an R-1 or R-2 District.
 17. Public Park, Playground, Ball Field and Tennis Courts.
 18. Real Estate Office (Temporary): Permitted only when used in conjunction with a residential subdivision provided such use shall be discontinued upon the completion of the development or within three (3) years from date of permit, whichever is sooner.

19. **Storage (Recreational Vehicles):** Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.
 20. **Swimming Pool (Private):** Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.
 21. **Tennis Courts (Private for residential use).**
 22. **Townhouses (Maximum of eight (8) attached units).**
- D. **R-3 SPECIAL USES.** The following uses require a public hearing and approval of the City Commission after a recommendation by the Planning and Zoning Commission. Provisions for special use permits are stated in Section 11-5-6 of this Code.
1. **Athletic Clubs and Bathhouses.**
 2. **Barber and Beauty Shops.**
 3. **Bed and Breakfast Inn.**
 4. **Church.**
 5. **Community Building (Public or Private).**
 6. **Gas Regulating Station (Public or Private Utility).**
 7. **Golf Course and Country Club.**
 8. **Halfway House and Quasi-Institutional Houses.**
 9. **Offices in Historical Structures.**
 10. **Offices:** Offices which provide health services such as medical, chiropractic, or rental and certain professional offices which have a low traffic volume such as attorneys or accountants, provided such offices maintain the residential character of the neighborhood where they are located.
 11. **Residential Vehicle Park.**
 12. **School (Public, Private, or Parochial).**
 13. **Swimming Pool (Public or Commercial).**
 14. **Telephone Exchange Station.**
 15. **Television and Radio Towers, and all other Free-standing Towers (Private Use):** Towers shall have manufacturer's specifications to withstand a 75 mph wind and shall be constructed to meet New Mexico Building Code standards.

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

a. Public Hearing/Discussion/Action: Request for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. Traci Alvarez, Assistant City Manager:

Traci Alvarez, Assistant City Manager: In your packet you have the application for a Special Use Permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings. There are two lots and the applicant is requesting to use one lot as a parking lot and the other lot has a residence on it that they would like to turn into a Community Center for Recovery Meetings. They have submitted letter explaining their request and wishes as well as a map of the area. I have also included a google map of the area so you can get a good visual.

Chairman Sisney opened the public hearing.

The Commission had concerns that the applicant was not present and questioned if they needed to be there to proceed with the hearing.

City Manager Swingle: It wouldn't be a requirement that they be here, but I personally have a lot of questions on this matter in a residential area that I would really like to get addressed, and if you go forward with the hearing, and I'm not saying that you shouldn't, but all of those questions are going to be unanswered and if they were approved today, it would go to the Commission, and if they don't come back at least to the Commission Meeting, I certainly am going to recommend that this be denied because this is a pretty important issue for a residential area.

Chairman Sisney: Can we table the matter and can we table it and still let the opponents speak.

City Attorney Rubin: I think maybe a combination. You can let the opponents speak since they are here, and after you hear from them you can recess this matter to the next meeting if you wish to do that.

Vice-Chairman Buhler: I think we should move forward.

Traci Alvarez, Assistant City Manager: Under the code for special use permits 11-5-6 c it states that Submission requirements. The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following: 1. Location of existing and proposed structures including the dimensions of setbacks; 2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way; 3. Location and treatment of open spaces including landscaping plan and schedule; 4. Lighting; 5. Signage; A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application. It

doesn't say in here that the applicant has to show up. I always recommend it, but it is not required. They have submitted all of the necessary paperwork as well as a statement of what they are wanting to do with the property so my recommendation would be to move forward.

City Attorney Rubin: All proper steps have been taken so I am okay with that.

Proponents:

None.

Opponents:

Rhonda Griego: We moved to T or C two years ago. It is our second home. However, it is turning more into my husband's primary home lately, but we are there 15 to 16 days out of the month and the people who live there across the street are quiet. It is a very quiet neighborhood. If they are going to put recovery meetings and stuff there, it is going to increase our traffic. I can tell you that we are right on the corner and people drive extremely fast down Magnolia and on 4th street. That is going to increase our traffic. We're not there 15 days out of the month so we don't know what will happen if it is a recovery center. I have relatives who run a recovery center for teens in Albuquerque and I know a lot of the things that happen behind the scenes and I don't want to come back here and deal with damage, trash, more traffic than what we already see. I don't want to have to deal with that, and being that we're not there we are going to have to put in security cameras so we can see what is happening because we don't know. That is a big concern, plus there is an elderly lady who lives across the street on the opposite corner of us and she is there by herself, and on the other side of her is the church. I am concerned about that as well. We ran into this in Albuquerque as well by our house for a different situation, but when you say its going to be one thing it eventually turns into something else. So if it is a community center there are going to be meetings. Will it turn into a recovery home and now people are staying there. We don't know. We know what the intention is now I guess, because we have limited information, but if it is a recovery center we just don't know what it will turn out to be later on.

Orlando Griego: My concern is that I don't know too much about a recovery center and how much traffic is going to be there, and like you said they are going to make another parking lot there. I mean, its on a residential so it should just stay as residential. The people who are going to start this probably don't live around there so they are not going to have to deal with it, but we are the people who are going to live across from it and who are going to have to deal with it if something goes wrong.

Vice-Chairman Buhler: They listed it as a community center and a community center is for everybody, and that would be everybody who lives around there, and that is not really what it is. It is very strange that they would not be here to speak on their behalf.

City Clerk Torres read the following email: To whom it may concern, I will not be able to attend the public hearing on Tuesday, October 11 regarding the special use permit request at 403/405 magnolia. I have lived in that neighborhood since 1983 it has always been a quiet family-oriented neighborhood. I do not believe that a residential neighborhood is the place for a recovery meeting center. It will bring

more traffic to the area and unfortunately more prying eyes. We have grandkids that are always playing outside and we are concerned it may be a safety issue with the different people and traffic in the neighborhood. Thank you I'd like to remain anonymous.

City Clerk Torres read the following email: SUBJECT: Special Use Permit. My understanding is the owner of these two lots is asking for a "Special Use Permit" in an established residential area. One lot for a parking lot and the other lot that has a residential building would be used for a Habitual Recovery meeting center. We are unable to make the meeting tonight, 10-11-2022, but would appreciate the following questions to be addressed since we have a home located on Magnolia. 1) Increased traffic, even though a lot would be cleared for parking (City Lot) it can flow over to the street parking and residents parking spaces. 2) Regarding the lot that has a residence will the use ONLY be for a dedicated meeting center? Will the meetings be designated for evening only, day only or both? And how many meetings? 3) Will it be possible the Residence could be used, once meetings have been established, for short term living, such as, week or a month? Or could part of the established parking have something else placed or built on the lot to be of service to the community meetings? 4) Why has a residential area been chosen for this type of meetings? Being a part-time resident at T or C, we are very knowledgeable of vacant land that could be purchased for these types of meetings that a small building/mobile home could be adaptable on and not in an established residential area. We are sure if we had more time to think about this request, we could survey other residents to see what their concerns or questions are. Unfortunately, we were in T or C the week the certified letter was sent to us at our primary residence. If we were able to vote on this Special Use Permit request our Vote would be No. If this request is passed then it would establish a precedence" to view all requests for Special Use Permits in residential areas. We strongly feel there are other areas that could be used for this purpose.

Chairman Sisney closed the public hearing.

Vice-Chairman Buhler made a motion to recommend to the City Commission to deny the special use permit for 403/405 Magnolia, for the purpose of Community Center Recovery Meetings because we don't really know anything about it. Member Luchini seconded the motion. Roll call vote was taken.

Chris Sisney, Chairman voted nay. He would like to hear more on this item.

Susan Buhler, Vice Chairman voted aye

Esther Luchini, Member voted aye

Motion carried with a 2-1 vote.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.5

SUBJECT: Summary Plat Amendment 719 Palo Verde

DEPARTMENT: Assistant City Manager

DATE SUBMITTED: October 20, 2022

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez

Summary/Background:

Public Hearing was held at Planning and Zoning Commission Meeting on 10-11-2022. Applicant was present. All required documents and fees submitted. Applicant wishes to amend their plat by combining both parcels. 1 Proponent (applicant), no opponents

Recommendation:

Planning and Zoning recommendation: Chairman Sisney made a motion to recommend approval of the summary plat amendment at 719 Palo Verde. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

Attachments:

- Planning and Zoning Agenda Packet
- Applicable section of draft P & Z Meeting minutes (refer to I-2 attachment for draft minutes in their entirety)

Fiscal Impact (Finance): N/A

Legal Review (City Attorney): Yes

Approved For Submittal By: ☒ Department Director

Reviewed by: ☒ City Clerk ☐ Finance ☒ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 10-11-2022

ITEM: Public Hearing/Discussion/Action – Summary Plat Amendment 719 Palo Verde

BACKGROUND:

Applicant wishes to eliminate the lot line separating his 2 parcels. This amendment does not have the effect to significantly alter the impacts on utilities, drainage, or traffic.

SUPPORT INFORMATION:

Plat Survey
Map Location
Notice of Public Hearing

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Name of Drafter: Traci Alvarez	:	Meeting date: 10-11-2022
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	

SHEET 2 OF 2
SEE SHEET 1 OF 2 FOR SURVEYOR'S CERTIFICATE,
ACKNOWLEDGEMENTS, AND APPROVAL BLOCK.

0.475 acre tract:
Warranty Deed Book 107 Pages 3785-3786
Filed 11/30/2006
Plat of Survey filed 4/30/1999 in Plat of Survey Book 1
#1997
Boundary Survey Plat filed 12/1/2006 in Plat of Survey Book 1
#4869
Assessor Owner #10184

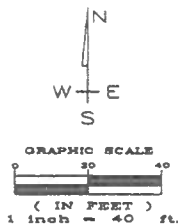
TRACT A:
Warranty Deed filed 11/23/2004 in Book 101 Page 4949
Plat of Survey filed 8/26/1998 in Plat of Survey Book 1
#1768
Assessor Owner #16029

Basis of Bearing:
Boundary Survey Plot filed 12/1/2006 in Plot of Survey
Book 1 #4869

Plat of Brown's Addition filed 8/4/1938 as Plat #2

Subject tracts and adjoining lots and tracts are contiguous.

Record dimensions shown in italics.



⊗ = water meter

\mathcal{Q} =utility pole

↓ = guy anchor

⊗ = gas meter

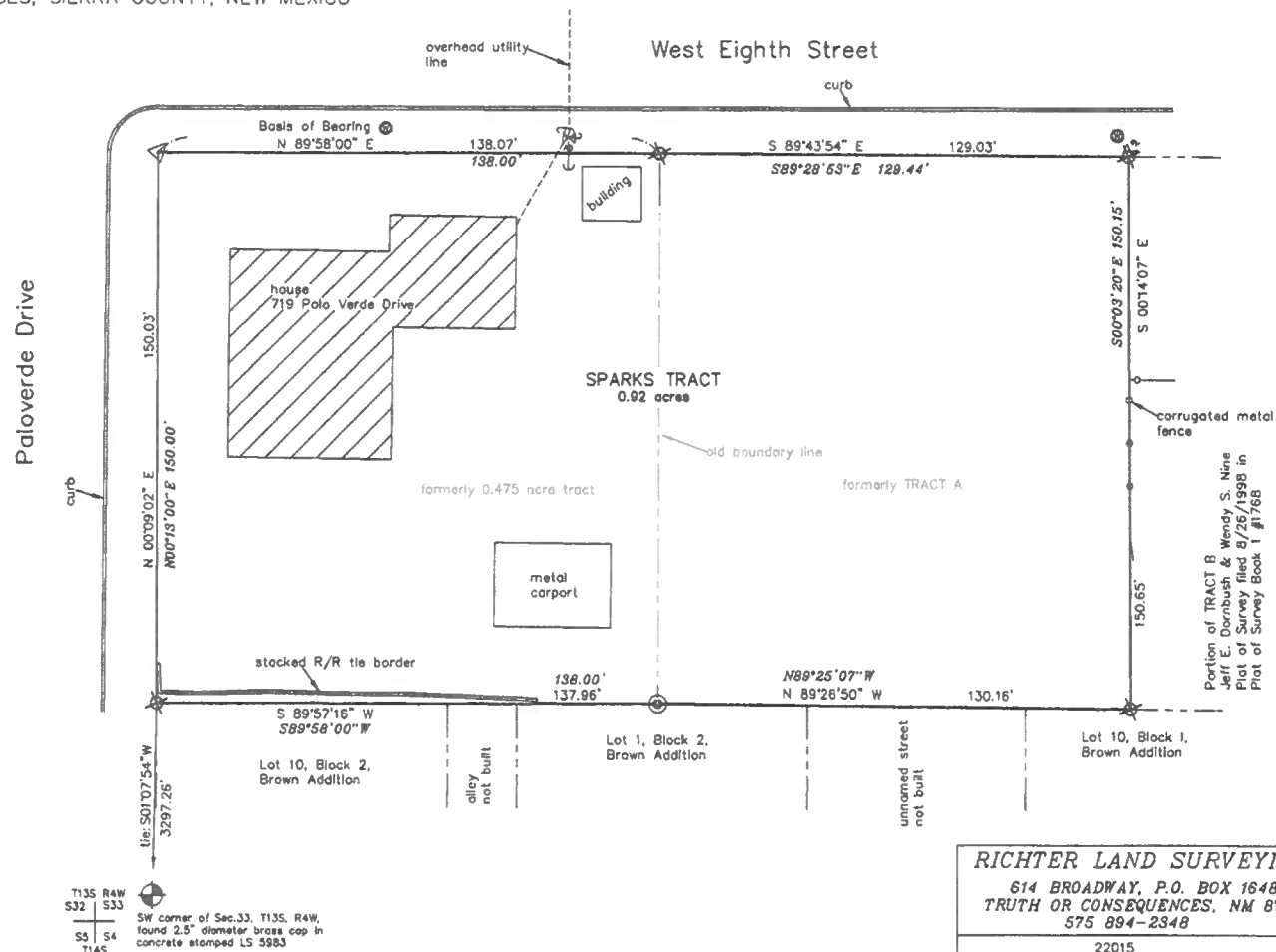
△ = found 1/2" rebar with 0.75" brass disc stamped 13984

⊙=found 5/8" rebar with 1.25" plastic survey cap stamped JL RICHTER NMLS 13984

⊗ = found 5/8" rebar & 1.25" plastic survey cap
stamped LOFTUS & CO RLS 8473 with
0.75" brass disc stamped 13984

found and accepted monuments tagged with
a 0.75" brass disc stamped 13984

all monument dimensions are "outside diameter"



RICHTER LAND SURVEYING

614 BROADWAY, P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575 894-2348

22015

INDEXING INFORMATION FOR COUNTY CLERK

Michael A. & Linda E. Sparks
Sec 33, T13S, R4W
Unplatted portion of Brown Addition

SUMMARY REPLAT OF SPARKS TRACT (formerly a 0.475 acre tract and "TRACT A" situate in the SW1/4NW1/4 of Section 33, Township 13 South, Range 4 West NMPM in the unplatted portion of the Brown Addition to Hot Springs), TRUTH OR CONSEQUENCES, SIERRA COUNTY, NEW MEXICO

The replat of tracts as shown and designated on Sheet 2 of 2 is in accordance with the wishes and desires of the undersigned, to wit:

Linda E. Sparks 8-09-22
Linda E. Sparks Date

COUNTY OF SIERRA)
STATE OF NEW MEXICO)

The foregoing instrument was acknowledged before me this 9th day
of August, 2022, by Linda E. Sparks

Lisa Gabaldon
NOTARY PUBLIC

05/22/2023
MY COMMISSION EXPIRES

The replat of tracts as shown and designated on Sheet 2 of 2 is hereby approved

Mayor, City of Truth or Consequences, NM

Date

STATE OF NEW MEXICO
NOTARY PUBLIC
LISA GABALDON
COMMISSION # 1126130
EXPIRES MAY 22, 2023

The replat of tracts as shown and designated on Sheet 2 of 2 is in accordance with the wishes and desires of the undersigned, to wit:

Michael A. Sparks 8/9/22
Michael A. Sparks Date

COUNTY OF SIERRA)
STATE OF NEW MEXICO)

The foregoing instrument was acknowledged before me this 9th day
of August, 2022, by Michael A. Sparks.

Lisa Gabaldon
NOTARY PUBLIC

05/22/2023
MY COMMISSION EXPIRES

SURVEYORS RICHTER

I, Jeff L. Richter, a duly Licensed Professional Surveyor No. 13984, do hereby certify that the Summary Plat and the actual survey so the ground upon which it is based were performed by me or under my direct supervision; that I am responsible for the survey and that this survey meets the Minimum Standards for Surveying in New Mexico; and that it is true and correct to the best of my knowledge and belief.

Jeff L. Richter 8-9-2022
Jeff L. Richter, Professional Surveyor No. 13984 Date

STATE OF NEW MEXICO
NOTARY PUBLIC
LISA GABALDON
COMMISSION # 1126130
EXPIRES MAY 22, 2023

RICHTER LAND SURVEYING
614 BROADWAY, P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575 894-2348

22015

INDEXING INFORMATION FOR COUNTY CLERK

Michael A. & Linda E. Sparks
Sec 33, T13S, R4W
Unplatted portion of Brown Addition



*Amanda Forrister
Mayor*

*Rolf Hechler
Mayor Pro-Tem*

*Merry Jo Fahl
Commissioner*



*Destiny Mitchell
Commissioner*

*Shelly Harrelson
Commissioner*

*Bruce Swingle
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Tuesday, October 11, 2022 to receive input regarding the following:

Public Hearing/Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 4:00 p.m.

Should you have any questions regarding this Public Hearing, please contact our Assistant City Manager Traci Alvarez at (575) 952-0565, or by email to talvarez@torcnm.org.

The agenda may be obtained on Friday, October 7, 2022 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, September 16, 2022

PLANNING AND ZONING COMMISSION FINDINGS OF FACTS CHECKLIST

Request Date _____ Address _____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

- a. Public Hearing/Discussion/Action: Summary Plat Amendment at 719 Palo Verde, Truth or Consequences. Applicant wishes to combine parcels 3022078506194 & 3022078519194. Traci Alvarez, Assistant City Manager:**

Traci Alvarez, Assistant City Manager: The applicants wish to eliminate a lot line separating their two parcels at 719 Palo Verde. The amendment does not have the affect to significantly alter any of the utilities, drainage or traffic. In your packet you have the survey that has been submitted showing the elimination of that lot line. There is also a visual on an assessor parcel map that shows the two separated parcels that they would like to conjoin as one. The applicants are in the audience if you have any questions. All adjacent property owners have been notified.

Chairman Sisney opened the public hearing.

Proponents:

Applicants Michael and Linda Sparks: We own two lots. They are almost a half-acre lot and they are zoned R1 which means that we have a 25ft. setbacks, and including the easement it is 37ft. We are wanting to install a carport for an RV and for a car hauler and that is the reason for combining the two lots. You would think with almost a half-acre you would have room, but with the setbacks it makes it almost impossible. The house takes up almost the entire one lot that is on the corner of Palo Verde and 8th and then the adjacent lot is on the other side. We border the street on two sides which makes it a 37 ft. setback and then on the other two sides it is a 25ft. setback.

Opponents:

None.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend approval of the summary plat amendment at 719 Palo Verde. Vice-Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.6

SUBJECT: Approve extension to the Franchise Agreement between the City of T or C and TDS

DEPARTMENT: Assistant City Manager

DATE SUBMITTED: October 20, 2022

SUBMITTED BY: Traci Alvarez

WHO WILL PRESENT THE ITEM: Traci Alvarez

Summary/Background: Agreement is due to expire. Staff would like to extend the agreement to obtain more time to review/update terms of the agreement.

Recommendation:

Approve extension of the Franchise Agreement

Attachments:

- Extension Agreement
- Ordinance No. 577

Fiscal Impact (Finance): TBD

Legal Review (City Attorney): Yes

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☒ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. -

Continued To: - Referred To: -

☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022

EXTENSION AGREEMENT

This Agreement, made this 26th day of October 2022, by and between the City of Truth or Consequences, a New Mexico Municipality, hereinafter called “City”, and TDS, as Successor in interest to Baja Broadband Operating Company, LLC, hereinafter called “TDS”.

Comes now the Parties, and hereby agree as follows:

RECITALS

1. The City duly passed Ordinance No. 577, a copy of which is attached hereto as **EXHIBIT 1**.
2. The Ordinance set for the terms of a Franchise Agreement between the parties.
3. As per page 15 of 16, Baja accepted the terms of the Franchise Agreement.
4. The Ordinance, along with an exercised extension, expires on October 31, 2022.
5. The parties desire to extend the underlying Franchise Agreement set forth in the ordinance through April 30, 2023.

WHEREFORE, the Parties agree as follows:

- A. The Franchise Agreement as described in Ordinance 577 (EXHIBIT 1) is hereby extended through April 30, 2023.
- B. The same terms and conditions of the Franchise Agreement as described in the Ordinance shall apply during the extension period.

DATED this 26th day of October, 2022.

CITY OF TRUTH OR CONSEQUENCES

Amanda Forrister, Mayor

ATTEST:

Angela A. Torres, City Clerk

APPROVED BY:

**TDS, as Successor in Interest to
BAJA BROADBAND OPERATING COMPANY, LLC**

ORDINANCE NO. 577

**AN ORDINANCE WHEREBY THE CITY OF TRUTH OR CONSEQUENCES GRANTS
BAJA BROADBAND OPERATING COMPANY, LLC, A DELAWARE LIMITED LIABILITY
COMPANY, AND ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE
FRANCHISE, LICENSE, RIGHT AND PRIVILEGE TO CONSTRUCT, ERECT, OPERATE
AND MAINTAIN ITS CABLE SYSTEM BUSINESS WITHIN THE LIMITS OF THE CITY OF
TRUTH OR CONSEQUENCES**

Whereas, it is the intent of the parties that **BAJA BROADBAND OPERATING COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY**, duly authorized to do business in the State of New Mexico, continue through this franchise to construct, operate and maintain a cable system in the City of Truth or Consequences. The parties intend that the franchise incorporate the City of Truth or Consequence's lawful exercise of police power and be subject to the lawful regulation by the New Mexico Public Regulation Commission and the State of New Mexico, and to the lawful applications of the Telecommunications Act of 1996, 47 USCA § 253. It is in the best interests of the City of Truth or Consequences, its citizens and of **BAJA BROADBAND OPERATING COMPANY, LLC**, that this franchise shall be granted. The parties further acknowledge that the granting of this franchise, including the use of municipal-owned utility poles, results in costs for the maintenance of the public rights-of-way in order that cable and other essential public services can be provided. In order that the public right-of-way and other facilities can be maintained for the provisioning of these services, it is necessary to recover reasonable costs from the providers of these services in the form of municipal franchise fees, and that these fees represent a legitimate cost of business to the provider, which in turn can be recovered from customers through a monthly surcharge; and,

Whereas, the City of Truth or Consequences, hereinafter called the "Grantor", hereby grants to **BAJA BROADBAND OPERATING COMPANY, LLC**, hereinafter called the "Grantee", its successors and assigns, the non-exclusive franchise, license, right and privilege to operate in the City of Truth or Consequences, as well as construct, erect, equip, lease, purchase, maintain and operate, in, upon, along, across, above, over and under the streets, alleys, easements, public ways and public places now in use or dedicated, and all extensions thereof, and additions thereto, in said Grantor, its poles, anchors, guys, wires, cables, manholes, microwave sites, underground conduits, appurtenances, fixtures, and other telecommunications facilities necessary, proper or convenient for the maintenance and operation in said Grantor of the Grantee's cable business; provided, however, that the Grantee shall locate all its transmission and distribution structures, lines and equipment within the Grantor so as not to unnecessarily obstruct the proper use of streets, alleys, public ways and public places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of said streets, alleys, public ways and public places; and,

Whereas, Grantee owns and operates a Cable System serving the Grantor under a prior franchise; and,

Whereas, Grantee desires to continue to operate the Cable System and to provide services to its customers over the Cable System; and,

Whereas, since assuming the current franchise, Grantee has timely paid all franchise fees and has substantially complied with all terms of the franchise and City ordinances; and,

Whereas, the Grantor finds that the renewal of Grantee's franchise on the terms and conditions of this Franchise Agreement will serve the cable-related needs and interests of the Grantor taking into account the costs.

THEREFORE, BE IT ORDAINED by the Governing Body of the City of Truth or Consequences, State of New Mexico that the following ordinance is hereby approved, passed and adopted:

Section 1. Agreement Based on the above understanding, the Grantor and Grantee agree as follows:

1. Definitions

For purposes of this Franchise Agreement, the following definitions shall apply:

- (a) "Basic Cable Service" is defined by the FCC as the lowest level of cable service a subscriber can buy. It includes, at a minimum, all over-the-air television broadcast signals carried pursuant to the must-carry requirements of the Communications Act, and all public, educational, or government access channels required by the system's franchise agreement. It may include additional signals chosen by the operator.
- (b) "Cable Act" shall mean the 1984 Cable Communications Policy Act of 1984, as amended by the 1992 Cable Competition and Consumer Protection Act of 1992 and the 1996 Telecommunications Act.
- (c) "Cable Information Service" shall mean two-way digital packet switched service provided over the Cable System using a cable modem and Internet protocol, which includes Internet access, interactive services and content, information services, electronic mail, access to newsgroups, a web browser, Website hosting and other enhancements.
- (d) "Cable Programming Service" shall mean a tier including all program channels on the cable system that are not included in Basic Cable Service, but are not separately offered as per-channel or per-program services. There may be one or more tiers of cable programming service.

(e) **"Cable Service" shall mean:**

(i) **the one-way transmission to subscribers of video programming, or other programming service, and**

(ii) **Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.**

(f) **"Cable System" shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the Grantor.**

(g) **"Grantor" shall mean the City of Truth or Consequences, New Mexico, and includes the City Commission and the duly elected or appointed officers, agents and employees of the Grantor.**

(h) **"Facilities" shall mean any distribution or transmission component of a Cable System, including cables, conduits, converters, splice boxes, cabinets, manholes, vaults, equipment, drains, surface location markers, appurtenances, and related facilities located by Grantee in the Rights-of-Way.**

(i) **"FCC" shall mean the Federal Communications Commission.**

(j) **"Grantee" shall mean Baja Broadband, LLC or its lawful successor.**

(k) **"Laws" shall mean any applicable state, Federal and local laws, ordinances and regulations.**

(l) **"Local Gross Subscriber Revenues" shall mean all gross revenues of the Grantee derived from the operation of the Cable System to provide Basic Cable Service, Cable Programming Service and Premium Cable Service within the Grantor, adjusted for nonpayment. Local Gross Subscriber Revenues shall not include amounts collected for franchise fees, taxes, local origination programming or access programming fees, advertising or revenues from Non-Cable Services.**

(m) **"Non-Cable Services" shall mean those services not defined as Cable Services.**

(n) **"Premium Cable Service" shall mean those single-channel programming tiers provided by the cable operator for which subscribers pay the cable operator an additional fee above the Basic Cable Service charge.**

(o) **"Rights-of-Way" shall mean the space on, above or below the surface of the public streets, roads, sidewalks, lanes, courts, ways, alleys, boulevards, and places including, without limitation, all public utility easements and public service easements within the Grantor's jurisdiction. This term shall not include**

any property owned by any person or agency other than the Grantor, except as provided by applicable Laws or pursuant to an agreement between the Grantor and any person.

- (p) "Telecommunications" shall mean the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- (q) "Telecommunications Service" shall mean the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (r) "Tier" shall mean a manner in which cable services are often provided. A tier is a category of cable service or services provided by a cable operator for which a separate rate is charged by the cable operator.

2. Grant of Franchise - Non-Exclusive Franchise

The Grantor grants to Grantee a non-exclusive franchise to operate a Cable System within the Grantor. This grant allows Grantee to construct, maintain, extend and operate its Facilities, in, through and along the Rights-of-Way for the purpose of providing Cable Services and Cable Information Services to the Grantor and its inhabitants for the full term of this Franchise Agreement, subject to the terms and conditions of this Franchise Agreement and applicable law. To the extent required by law, this grant of franchise shall also include the provision of Telecommunications Services over the Cable System, subject to certification of Grantee to provide such services, if required under applicable law

3. Term and Renewal

The term of this Franchise Agreement shall be for a period of ten (10) years from the effective date, unless sooner terminated as provided in this Franchise Agreement or the Cable Ordinance. Unless either party gives notice of its intent to terminate the Franchise Agreement at least 36 months prior to the expiration of the term, the term shall be automatically extended for one (1) additional five (5) year term.

4. Franchise Area

The Grantee is authorized to operate a Cable System throughout the entire corporate limits of the Grantor. The Grantor specifically retains the right to award other cable television franchises in the Grantor.

5. Franchise Fee

(a) Three Percent of Local Gross Revenues

During the term of this Franchise Agreement and any extension, Grantee shall pay to the Grantor an annual franchise fee in an amount equal to three percent (3%) of the annual Local Gross Subscriber Revenues. The franchise fee shall be paid in

addition to any other lawful tax payment owed to the Grantor by the Grantee. Grantee shall annually provide the Grantor with a financial report indicating the annual Local Gross Subscriber Revenues derived from subscribers within the Grantor.

If Grantor shall elect to reduce the amount of the franchise fee, such reduction shall forthwith result in a reduction of fees to subscribers in the same amount.

(b) Annual Payments

The franchise fee shall be paid annually. Grantee shall pay the applicable fee to the Grantor within ninety (90) days of the last day of the applicable calendar year for which a fee payment is due.

(c) Reasonable Access to Records

Grantee shall provide the Grantor with reasonable access to Grantee's records documenting the Gross Revenues from Cable Service as defined in this Franchise Agreement. Grantee shall comply with all reasonable requests for information in the performance of any audit. The Grantor shall agree to appropriate confidentiality protection for access to confidential or proprietary information.

6. System Configuration

(a) Cable System

- (i) Grantee shall comply with all rules and regulations of the F.C.C. with respect to the reception, carriage and distribution of signals.
- (ii) Nothing herein shall be construed to prohibit the Grantee from increasing the capability of the cable communication system or constructing the same in accord with more advanced technological standards than those proposed by the Grantee.

(b) System Design

Where feasible Cable System shall utilize a hybrid fiber-coaxial architecture and shall be designed with the capability to transmit return signals upstream. Grantee may develop, construct and operate a Cable System capable of providing non-video services such as Cable Information Service, high-speed data transmission, Internet access, voice over internet protocol phone service, and other competitive services that Grantee may activate in response to consumer and business demand for such services.

7. Services Provided to the Grantor

(a) Complimentary Basic Enhanced Cable Service

Upon request, Grantee shall provide, at no recurring charge to the Grantor, one outlet of Basic Cable and Cable Programming Service to the City Hall, fire stations and municipal buildings listed on Exhibit A and public and private schools located within 150 feet of Grantee's existing Cable System. If the City Hall, fire stations or schools are located beyond 150 feet, the additional construction costs and expense exceeding 150 feet will be calculated on a time and materials basis and paid by the entity requesting service. Service drop installations for such outlets shall be provided at the cost of time and materials and paid by the requesting entity.

8. Channels and Facilities for Public, Educational and Governmental Use.

(a) Access Channels

The Grantee shall provide Grantor with one channel for noncommercial Public, Educational, and Governmental (PEG) use. Grantee will provide one additional channel for PEG use provided the first channel is "substantially utilized". A PEG channel shall be considered "substantially utilized" when forty hours per week are programmed with locally produced original programming on that channel for at least three consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four times during a calendar year. Provided the first channel is substantially utilized, Grantee shall have 120 days to provide the channel after receipt of the Grantor's written request for the additional channel.

(b) Management of PEG Channel

Grantor shall be responsible for management of the PEG channel and shall adopt rules, regulations and procedures for access channel use.

(c) Editorial Control

Except as expressly permitted by federal law, the Grantee shall not exercise any editorial control over the content of programming on the designated access channels (except for Grantee's own programming cablecast on those channels).

(d) Use of PEG channel capacity by Grantee

Grantee may program any unused capacity on channel capacity provided for PEG use.

(e) PEG Channel Grant

Grantee shall provide an annual grant to the Grantor in the amount of \$3.00 per subscriber. Said grants must be used by the Grantor to support the PEG channel and may be recovered by Grantee from subscribers in accord with applicable law.

9. Customer Service Standards

Grantee shall comply with the customer service standards promulgated by the FCC, which are hereby included by reference.

10. Discriminatory Practices Prohibited

Grantee shall make its Cable Services available to all citizens within the Cable System based on the terms of this Franchise without discrimination and shall not give any person any preference or advantage not available to all persons similarly situated, provided that nothing contained herein shall prevent Grantee from implementing credit, deposit and acceptance criteria.

11. Construction, Operation and Maintenance of the Cable System

(a) Applicable Standards

- (i) Grantee shall ensure that the Cable System is constructed, operated, and maintained in accordance with all applicable laws and industry operational and safety standards. Grantee agrees to keep all facilities in good and safe condition. If the Grantor finds that an unsafe condition exists with respect to all or any portion of the Grantee's Cable System, it may order Grantee to make repairs, and Grantee shall make all such repairs necessary to correct any such unsafe condition within a time frame specified by the Grantor. The Grantor will take into account the nature of the repairs in setting the time frame.
- (ii) Any contractor engaged by Grantee to work on the Cable System must maintain all required licenses and certifications required by applicable Laws.
- (iii) Grantee shall locate the Cable System and associated Facilities within the Grantor so as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the Rights-of-Way or other public ways and places. Grantee shall not place any pole or other fixture in any public way in such a manner as to interfere with the usual travel on such public way.
- (iv) Grantee acknowledges that it will also simultaneously enter into a Pole Use Agreement with Grantor as is a condition of this agreement.
- (v) All construction, alteration, or removal of Facilities shall further conform to any special requirements imposed by the Grantor incidental to plan approval or issuance of permits. In case of disturbance of any Right-of-Way, Grantee shall, at its own cost and expense and in a manner approved by the Grantor, replace and restore the effected portion of the Right-of-Way.

- (vi) Grantee shall have the authority to routinely trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the Grantor so as to prevent the branches of such trees from coming in contact with Grantee's Facilities provided Grantee has given the Grantor at least 5 days prior written notice of the trimming activity. All tree trimming will be performed with due care for the trees and only to the extent necessary to prevent the branches from coming into contact with Grantees facilities. At the option of the Grantor, trimming may be done by it or under its supervision and direction at the expense of the Grantee. Prior notice shall not be required in the event of an emergency and Grantee shall have the authority to trim branches and trees which have fallen onto Grantees facilities, provided written notice is later provided to the Grantor once the emergency subsides.

(b) Maintenance, Operations and Record Keeping

In maintaining and operating the Cable System, Grantee shall:

- (i) Render efficient service, locate and repair malfunctions promptly, and respond to subscriber service complaints as required by the Federal Communications Commission and this Franchise Agreement.
- (ii) Maintain a toll-free customer service telephone number, so operated that complaints and requests for repairs may be received and processed twenty four (24) hours per day, seven (7) days per week.
- (iii) Operate the Cable System continuously and schedule any planned interruptions of the cable television service, including testing and maintenance interruptions, for the shortest possible time possible and when there will be a minimum number of customers inconvenienced.
- (iv) Temporarily raise or lower its wires to permit the moving of buildings at the request of any person holding a building-moving permit issued by the Grantor. The permit holder shall pay the expense of such temporary raising or lowering of wires and the Grantee shall have the authority to require such payment in advance. The permit holder shall provide Grantee with not less than three (3) weeks advance notice to arrange for such wire changes.
- (v) Upon the reasonable request of the Grantor, file with the Clerk maps of the Grantor indicating the accurate location of all existing cables, whether leased or owned by Grantee.
- (vi) Upon the request of the Grantor, send a representative to attend a regularly scheduled City Council meeting to discuss matters related to the Cable System.

(c) Credit

If for any reason, other than through the negligence or direct and willful harm or illegal action caused by the subscriber, the entire Cable Service is not received for a period of twenty four (24) hours consecutively or increments of twenty-four (24) hour periods, the Grantee shall prorate a credit. Such credit issued to the subscriber's bill shall be implemented upon request of the subscriber.

(d) System Extensions

The Grantee shall extend its system plant to all areas within the Grantor for potential customer service when such areas provide a per ratio formula of occupied residential units per mile that equals the current overall system average. Extension of the system to subscribers in areas of less than average system density or to residents whose homes are located more than one-hundred and fifty (150) feet from the existing cable distribution line shall be made if the subscribers agree to pay reasonable construction costs. Nothing above shall be construed to prevent Grantee from extending the service area at a faster rate or to areas of lower concentration than specified above. Grantee's obligation to provide service as indicated is subject to the Grantee's ability to obtain the necessary easements or rights-of-way required and its ability to extend its facilities at a reasonable cost.

12. Insurance

The Grantee shall maintain throughout the term of this Franchise, liability insurance insuring the Grantor and the Grantee with regard to all damages for which the Grantor and/or the Grantee may be liable, including, but not limited to, damages arising from the installation, operation, maintenance or removal of the Grantee's Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this franchise. Grantee shall provide copies of such policies to the Grantor.

The liability insurance referred to in this section shall be in the following minimum amounts. Insurance will be maintained as follows:

(i) General Liability Insurance

\$100,000. Per Occurrence for Bodily Injury & Property Damage
\$300,000 General Aggregate for Bodily Injury & Property Damage
\$300,000 Products Aggregate for Bodily Injury & Property Damage
Commercial Automobile Insurance

\$50,000 Per Occurrence for Bodily Injury & Property Damage

(ii) Workman's compensation insurance shall also be provided as required by the laws of the State of New Mexico, as amended.

13. Rights Reserved by the Grantor

(a) Enforcement of City Ordinances

This Franchise is subject to all applicable provisions of general City ordinances. During the term of this Franchise, Grantee shall remain subject to the lawful exercise of the police power of the Grantor and to observe such reasonable regulations as the Grantor may provide, and shall comply with all applicable Laws.

(b) Police Power Authority

The Grantor may impose such other non-discriminatory and competitive neutral regulations as may be determined by the Commissioners to be in the interest of public health, safety, welfare, convenience or necessity of the Grantor.

(c) Regulation of Rights-of-Way

The Grantor may exercise all lawful control and regulation of the use of its street, alleys, bridges, and other public places and public ways and the space above and beneath them. Grantee shall pay such part of the cost of repair or replacement of streets, alleys, bridges, and other public places and public ways, as shall arise due to damage caused by Grantee due to construction or maintenance of its system and shall protect and save the Grantor harmless from all damages arising from Grantee's use.

(d) Grantor Inspection

Without notice to Grantee, the Grantor may inspect construction or installation work performed by Grantee, and make such inspections as necessary to insure compliance with this Franchise Agreement, the Cable Ordinance, Pole Utilization Agreement, and applicable Law.

(e) FCC Regulations

Subject to applicable law, the Grantor may maintain in force rules or regulations respecting the minimal requirements of signal carriage, channel capacity, number and designation of access channels, access services, technical standards, and system performance promulgated by the FCC, should that agency at any time in the future cease regulation of one or more of the above-mentioned subjects of regulation.

14. Transfer of Franchise Agreement

Grantee shall have the right hereunder to pledge or hypothecate this franchise at any time, and from time to time, and to grant any security interests in the Cable System at any time and from time to time, to secure any indebtedness or obligations from time to time owed by Grantee, whether such security interest(s) shall be a first or subordinated

security interest(s); and the Grantor hereby consents to the exercise of the party's rights as a secured party in this Franchise and/or the Cable System in the event of a default by Grantee and the Grantor shall accept such secured party's performance of Grantee's obligations under this Franchise. Without in any way limiting the scope or effect of the foregoing sentence, Grantee shall also have the right to assign or otherwise transfer this Franchise to any third party upon thirty (30) days prior written notice to the Grantor, provided that Grantee shall, at the date of such notice, be in substantial compliance with the material terms and provisions hereof and provided further that such third party assignee or transferee shall have adequate technical and financial capability to comply with the foregoing terms and provisions hereof and applicable law. Upon the Grantor's receipt of Grantee's thirty (30) day notice of assignment or transfer, and prior to the effective date of the respective assignment or transfer referenced therein, the Grantor shall have the right to commence a legal proceeding to enjoin or otherwise estop such assignment or transfer, provided that, to prevail in any such action, the Grantor shall be required to demonstrate, by a preponderance of the evidence, that the third party assignee or transferee does not possess the hereinbefore specified technical and financial capability.

15. Conditions of Franchise Agreement

This Franchise Agreement is granted and accepted under and subject to all applicable Laws, orders, and regulations now or later adopted. Grantee's performance obligations shall remain subject to Acts of God, fires, strikes, riots, floods, war and other causes beyond Grantee's control.

16. Other Franchises

The franchise granted under this Franchise Agreement is non-exclusive. Grantee acknowledges the Grantor's rights to grant one or more competing franchises. To avoid unfair competition due to disparate franchise obligations, the Grantor will, upon petition of Grantee, modify terms of this Franchise Agreement to adjust or eliminate terms that are more burdensome or costly than the terms of a competing provider's franchise. In considering a modification petition under this section, the Grantor may evaluate Grantee's request in light of the aggregate burdens and costs of each provider's franchise obligations. The Grantor shall provide Grantee with no less than two (2) weeks notice of a scheduled hearing date to consider the application of another cable telecommunications provider. In addition, if another video franchise is authorized the Grantor shall require the new franchisee to reimburse and hold harmless the Grantee from and against all costs and expenses incurred by or on behalf of the Grantee for strengthening poles, replacing poles, rearranging attachments, placing underground facilities and all other costs, including those of Grantor, the Grantee and any utilities, required by inspections, make-ready and construction of an additional cable system in the franchise area. These requirements in no way infringe on the Grantor's ability to require Grantee to accommodate Grantor owned utility requirements as set forth in any applicable pole attachment agreement.

17. Modifications Due to Changes in Laws or Regulations

The Grantor or Grantee may seek modification of this Franchise Agreement due to changes in Federal or state laws or regulations in accordance with the following procedures:

(a) Notice

The party seeking modification shall serve the other party notice of a request for modification under this Section. The notice shall specify (i) the changes in laws or regulations on which the modification request is based, and (ii) the desired modifications.

(b) Mutually Agreeable Modifications

Within 60 days of delivery of the notice, representatives of the Grantor and Grantee shall meet to develop mutually agreeable modifications to the Franchise. Any mutually agreeable modifications shall be presented to the City Commissioners for consideration.

(c) Proposals for Modifications

If the City Manager and Grantee cannot develop a mutually agreeable recommendation for modification within a reasonable time, then the City Manager and Grantee shall submit to the City Commissioners their respective proposals for modification under this Section.

(d) City Commission Action

The City Commission shall review the proposals and comments of interested parties at a public hearing. The City Commission shall then issue a decision concerning any modification to the Franchise Agreement under this Section.

(e) Appeals

Grantee may appeal under applicable law a denial of a modification proposal under this Section.

18. Indemnification

Grantee agrees to indemnify, defend and save the Grantor harmless from and against all third-party claims which may arise out of Grantee's non-performance or breach of the franchise or any negligence involving Grantee's operations thereunder in the Grantor, including all expenses reasonably incurred by the Grantor in defending itself against any claim, action or suit. The Grantor agrees to give Grantee written notice of any claim no later than 4 weeks from the date the Grantor is made aware of the occurrence and to allow Grantee, at Grantee's option, to assume the defense of the claim. This agreement

to indemnify is between the Grantor and Grantee and shall not be interpreted or deemed as creating any rights in any third-party.

19. Severability

If any provision of this Franchise Agreement or its application to any person or circumstances is held invalid or is preempted, such invalidity or preemption shall not affect other provisions, sections, subsections or applications of this Franchise Agreement.

20. Rights and Duties of Grantee upon Expiration of Franchise

Upon expiration of this Franchise Agreement, whether by lapse of time, by agreement between Grantee and the Grantor, or by termination, Grantee has the right to remove its Facilities within six (6) months after such expiration or forfeiture. Grantee shall promptly restore the Rights-of-Way from which its Facilities are removed to as good condition as before removal and without cost to the Grantor.

21. Notice to Parties

Notices under this Franchise Agreement shall be in writing and shall be deemed given upon receipt by hand delivery, certified mail return receipt requested, or overnight courier to the following addresses:

To Grantor:
City of Truth or Consequences
505 Sims St.
Truth or Consequences, NM 87901

To Grantee:
Baja Broadband Operating Company, LLC
14120 Ballantyne Corporate Pl, Ste 500
Charlotte, NC 28277

Attention: City Clerk

Attn: VP - Regulatory Affairs

A party may designate other addresses for providing notice by providing notice in writing of such addresses.

22. Effectiveness

This Franchise Agreement shall become effective after the following: (i) the Franchise Agreement has been duly approved by the Grantor at a public meeting; and (ii) Grantee has filed a letter of acceptance under Section 23.

23. Grantee Acceptance

Grantee shall, within ninety (90) days from the Agreement Date, file with the City Clerk its written acceptance of all the terms, conditions, and provisions of this Franchise Agreement.

Section 2. Franchise Authority. This franchise is subject to the superior power of any government authority, whether state or federal, having jurisdiction of the premises or exercising regulatory jurisdiction over the Company.

Section 3. Effective Date. This ordinance shall become effective Fifteen (15) days after its enactment; provided the Company, within those Fifteen (15) days, shall have filed with the City Clerk of the Municipality an unconditional acceptance thereof. Within ten (10) days after the filing of the acceptance, the City Clerk shall acknowledge in writing the receipt of the Company's acceptance.

Section 4 Severability Clause. If any section, subsection, sentence, clause, word or phrase of this ordinance is for any reason held to be unconstitutional, illegal or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Commission, the Governing Body of the Municipality, hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, word or phrase thereof regardless of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid. All ordinances and agreements or parts thereof in conflict with this ordinance are hereby repealed.

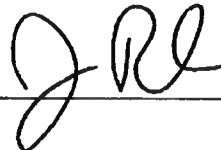
PASSED, ADOPTED AND APPROVED this 13th day of Nov. 2007, at a regular meeting of the City Commission for the City of Truth or Consequences, State of New Mexico.


Mayor Lori Montgomery

ATTEST:

Mary Penner, City Clerk

Approved as to Form by Jay Rubin City Attorney:



**ACCEPTANCE OF CITY OF
TRUTH OR CONSEQUENCES ORDINANCE NO. 577**

WHEREAS, the City Council of the City of Truth or Consequences, New Mexico, did on the 13th day of November 2007, enact Ordinance No. 577 entitled: "AN ORDINANCE WHEREBY THE CITY OF TRUTH OR CONSEQUENCES GRANTS BAJA BROADBAND OPERATING COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE FRANCHISE, LICENSE, RIGHT AND PRIVILEGE TO CONSTRUCT, ERECT, OPERATE AND MAINTAIN ITS CABLE BUSINESS WITHIN THE LIMITS OF THE CITY OF TRUTH OR CONSEQUENCES.", and

WHEREAS, said Ordinance was on the 13th day of November, 2007, approved by the City of Truth or Consequences and the seal of said City was duly thereto affixed and attested by the City Clerk.

NOW THEREFORE, in compliance with the terms of said Ordinance as enacted, approved and attested, **BAJA BROADBAND OPERATING COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY** hereby accepts said Ordinance and files its written acceptance with the City Clerk of the City of Truth or Consequences, New Mexico, in her office.

Dated this 28 day of November 2007.

BAJA BROADBAND OPERATING COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY


Title: _____

The foregoing instrument was acknowledged before me this 28 day of ^{November}~~October~~ 2007, by William A. Schuler, of **BAJA BROADBAND OPERATING COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY**

 Notary Public My Commission Expires: 8/27/11

(Seal)

EXHIBIT "A"

**List of buildings that will receive free cable
service as provided in the Baja Cable Franchise**

- City Hall
- Municipal Court
- Water Department
- Electric Department
- Library
- Civic Center
- Senior Center
- Fire Department
- Police Department
- Sanitation Department
- Waste Water Department
- Street Department
- Armory Building
- Hospital
- Fleet Maintenance Department
- Airport



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.7

SUBJECT: Approve recommendation from the Recreation Advisory Board to remove the BMX sign and track.

DEPARTMENT: Community Services

DATE SUBMITTED: October 21, 2022

SUBMITTED BY: O.J. Hechler

WHO WILL PRESENT THE ITEM: O.J. Hechler

Summary/Background:

The Parks and Recreation Advisory Board is recommending the removal of the BMX Bike Track located at the Louis Armijo Sports Complex. This facility is difficult to maintain and has had little to no usage since its construction. The City will reclaim the area by removing the sign, flattening the track, and will determine a better use of the property in the future.

Recommendation:

Approve staff to proceed with flattening and demolishing the BMX Track

Attachments:

- Photos of the Sign and current condition of the BMX Track

Fiscal Impact (Finance): N/A

\$0.00

Legal Review (City Attorney): N/A

Approved For Submittal By: ☐ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☐ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. - Ordinance No. -

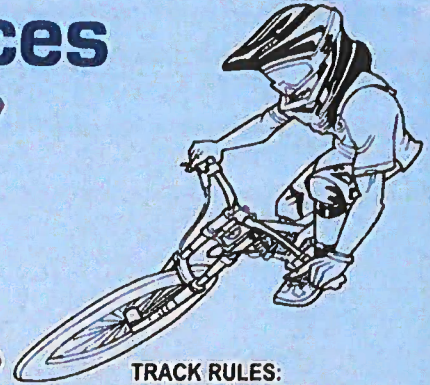
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☐ Approved ☐ Denied ☐ Other: -

File Name: CC Agendas 10-26-2022

Truth or Consequences

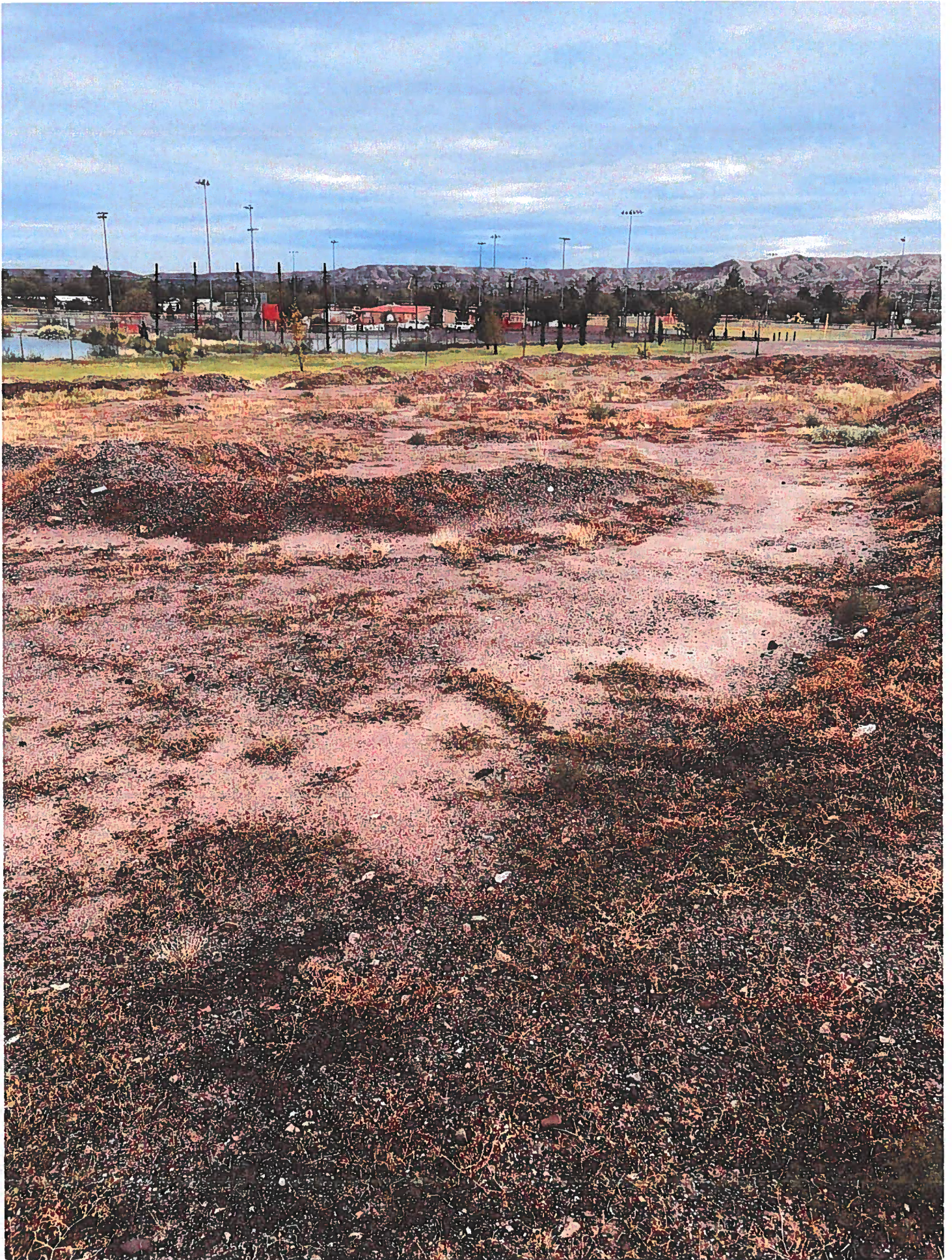
BMX TRACK



TRACK RULES:

- Use at your own risk. This facility is NOT supervised.
- NO motorized vehicles are permitted on the track.
- Protective gear on the rider and on the bike is strongly recommended. Avoid being on a first-name basis with the emergency room.
- Track is open to the public; take care of your track.
- This track is operated by the T. or C. Recreation Dept.
- In an EMERGENCY, call 911.

THE CITY OF TRUTH OR CONSEQUENCES IS NOT RESPONSIBLE
FOR INJURIES OR ACCIDENTS WHILE USING THIS TRACK





CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.8

SUBJECT: Review, Approve, and/or Allocate Funds for the Sierra County 4-H/Extension Lodger's Tax Application

DEPARTMENT: City Manager's Office

DATE SUBMITTED: October 13, 2022

SUBMITTED BY: Tammy Gardner

WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

Commission approval of Sierra County 4-H/Extension application. They are requesting funding to purchase portable panels/pens and a large tent for the Southern Regional Livestock School in June of 2023. This will be allocated from the City's portion of Lodger's Tax.

Recommendation:

Approval and allocation of funds

Attachments:

- Sierra County 4-H/Extension Application
- -

Fiscal Impact (Finance): Yes

\$18,000.00

Legal Review (City Attorney): N/A

Click here to enter text.

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: Click here to enter text.

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. Click here to enter text. Ordinance No. Click here to enter text.

Continued To: Click here to enter a date. Referred To: Click here to enter text.

☐ Approved ☐ Denied ☐ Other: Click here to enter text.

File Name: CC Agendas 10-26-2022



2022-2023 LODGERS' TAX GRANT APPLICATION

PART I: PROJECT INFORMATION

Complete one application for each project or event.

Organization Name	Sierra County 4-H/Extension
Project/Event Name	Southern Regional Livestock School
Event Date(s) and Location (if applicable)	June of 2023
Event Organizer & Title within Organization (if applicable)	Sara Marta- Sierra Co. Extension Program Director
Phone Number of Organizer	575-894-2375
Email of Organizer	skmarta@nmsu.edu
Organization Address	2101 South Broadway St. TorC, NM 87901
Organization's Contact Person (If different than event organizer)	
Contact Phone and Email for Organization's Contact Person	

PART 2: PROJECT COST AND FUNDING REQUEST Lodgers Tax Grant Funding

Amount Requested: (Must match application page 4)	~ \$15,000- Portable Livestock Panels for 30 pens ~ \$3000- Large Tent for additional show arena
Anticipated Attendance (not including volunteers/staff):	~550 people

PART 3: CRITERIA

Was this project/event funded in 2020-2021? Circle one: Yes/No

How many times has your event occurred? List previous events years. If new, indicate "new":

Southern Regional Livestock School has been held for two years in Sierra County at the Sierra County Fairgrounds. The event started in 2020.

1. Define/Describe the overall project/event (what is happening at the event?): Livestock School educates NM youth about livestock production, showmanship, nutrition and general care. Youth select a particular track (swine, goat, lamb or cattle) for the 4 day event. During this time they are required to attend a schedule set by an instructor which includes training in animal handling and grooming techniques, animal health and nutrition and animal selection. All of which are valuable skills to ensure sustainability and success of future livestock producers and leaders. The skills gained during livestock school translate into career opportunities within the agriculture industry. Self-confidence, work ethic, responsibility and industry knowledge are key components to meeting consumer demands and ensuring increased economic returns to producers and agriculturalists.

2. Who is your target audience for your project/event and advertising (who do you want to attend?) **Youth ages 7-19. The majority of the participants are 4-H and FFA members but the event is open to any youth with an animal project.**

3. Describe the regions/cities in which you plan to market your project/event outside of Truth or Consequences?

The event is advertised through New Mexico State University's College of Agriculture, Consumer and Environmental Sciences Department, NM Extension Websites, NM Extension Facebook sites and emailed to all state county agents.

4. What percentage of your printed materials will be distributed outside of Sierra County and how will they be distributed?

N/A

5. Describe your project/event indicators of success and how you plan to gather the information and how you plan to share that assessment with the City (e.g. increased hotel stays, increased attendance, first time attendees:

The event is currently assessed by both a pre and post evaluation through Qualtrics Experience Management Survey System. The current evaluation includes a questioner

based on event quality. We can also include questions that would provide indicators useful for the city.

6. How many Facebook followers do you have for this event page or organization page (for a project)? _____ Instagram followers? _____

Sierra County Extension has approximately 700 followers. Information for this event is also posted on the NMSU Extension Page which has approximately 2,200 followers.

7. If applicable, do you plan to sell advertising for this project? If so, how much do you anticipate will be ad revenue will be generated? _____

N/A

8. If you are asking for funding for an existing website, be sure to attached analytics from previous year.

N/A

PART 4: PLAN FOR GRANT AMOUNT REQUESTED

Fill out this chart with your spending plan and the costs for these items. Note: **The items listed within this budget are the only reimbursable items after funds are awarded.** Modifications to your plan may only take place with regards to variation in dates of publication. Items not listed within the application at the time of approval will not be reimbursed. The Lodgers' Tax Board reserves the right to recommend denying funding of specific items within this budget during their recommendation to City Commission.

Advertising/Promotion Company/Provider	Type of Ad/Promotion	Cost
Please See Attached		
TOTAL AMOUNT REQUESTED: Must match page 1.		~\$18,000

PART 5: FINANCIAL DISCLOSURE CHECKLIST

As per the attached City Ordinance, all applicants for Lodgers' Tax funds must submit the following information. You are only required to submit this information once per fiscal year.

- ☐ IRS and Secretary of State proof of Good Standing
- ☐ Previously submitted

PART 6: ASSURANCES AND CERTIFICATIONS

I/We certify that I/we am/are authorized to act on behalf of the organization making this application and that the statements herein are complete and accurate to the best of my knowledge. If funded, we will keep a clear and accurate accounting of how the funds were used. We will evaluate the use of funds as required and approved by the City of Truth or Consequences and will deliver an evaluation report to the City no more than (60) days after the event or project completion, except when the events or projects occur between April 1st and May 15th, such evaluations must be submitted by the last day of May.

Print your name and title: Sara Marta, Sierra Co. Extension Program
Director

Signature: 

Date: 10/13/22



Potential Vendors

WW Livestock

Lazy JV Ranch Equipment



CITY OF TRUTH OR CONSEQUENCES

AGENDA REQUEST FORM

MEETING DATE: October 26, 2022

Agenda Item #: I.9

SUBJECT: Approval of the 2023 City Holiday Schedule Memo
DEPARTMENT: City Manager's Office
DATE SUBMITTED: October 21, 2022
SUBMITTED BY: Tammy Gardner
WHO WILL PRESENT THE ITEM: Bruce Swingle, City Manager

Summary/Background:

Approval of the 2023 Holiday schedule for City Offices.

Recommendation:

Approval of holiday schedule.

Attachments:

- Holiday 2023 Memo
- -

***Fiscal Impact (Finance):* No**

-

***Legal Review (City Attorney):* N/A**

-

Approved For Submittal By: ☒ Department Director

Reviewed by: ☐ City Clerk ☐ Finance ☐ Legal ☐ Other: [Click here to enter text.](#)

Final Approval: ☒ City Manager

CITY CLERK'S USE ONLY - COMMISSION ACTION TAKEN

Resolution No. [Click here to enter text.](#) Ordinance No. [Click here to enter text.](#)

Continued To: [Click here to enter a date.](#) Referred To: [Click here to enter text.](#)

☐ Approved ☐ Denied ☐ Other: [Click here to enter text.](#)

File Name: CC Agendas 10-26-2022

POST THROUGH DECEMBER 31, 2023

**City of Truth or Consequences
City Manager's Office**

MEMORANDUM

October 26, 2022

TO: ALL DEPARTMENT HEADS/SUPERVISORS/MANAGERS

FROM: _____
Amanda Forrister, Mayor

RE: HOLIDAY SCHEDULE – 2023

The City of Truth or Consequences will observe the following legal public holidays in **2023**. Please notify your employees that City Offices will be closed these days.

New Year's Day/Eve	will be observed on Monday	January 2, 2023
Martin Luther King Jr. Day	will be observed on Monday	January 16, 2023
Presidents Day	will be observed on Monday	February 20, 2023
Spring Day – 4 Hours	will be observed on Friday	April 14, 2023
Fiesta Day – 4 Hours	will be observed on Friday	May 5, 2023
Memorial Day	will be observed on Monday	May 29, 2023
Juneteenth	will be observed on Monday	June 19, 2023
Independence Day	will be observed on Tuesday	July 4, 2023
Labor Day	will be observed on Monday	September 4, 2023
Indigenous People Day	will be observed on Monday	October 9, 2023
Veterans Day	will be observed on Friday	November 10, 2023
Thanksgiving Day	will be observed on Thursday	November 23, 2023
Day after Thanksgiving	will be observed on Friday	November 24, 2023
Christmas Day	will be observed on Monday	December 25, 2023
New Year's Day/Eve	will be observed on Monday	January 1, 2024