

CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
WEDNESDAY, AUGUST 12, 2020

**A. CALL TO ORDER:**

The meeting was called to order by Mayor Sandra Whitehead 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. Sandra Whitehead, Mayor  
Hon. Brendan Tolley, Mayor Pro-Tem  
Hon. Paul Baca, Commissioner  
Hon. Amanda Forrister, Commissioner

Absent: Hon. Randall Aragon, Commissioner

Also Present: Morris Madrid, 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 Whitehead called for fifteen seconds of silent meditation.

**3. PLEDGE OF ALLEGIANCE:**

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

**4. APPROVAL OF AGENDA:**

City Manager Madrid requested that item F1 be removed from the agenda so the packet can include the ordinance and all of the relevant language when presented.

**Mayor Pro-Tem Tolley moved to approve the agenda as amended.  
Commissioner Forrister seconded the motion. Motion carried unanimously.**

**C. COMMENTS FROM THE PUBLIC:**

Dennis Dunnum apologized for having to resign from the Planning & Zoning Commission. He also commented on item F1 (JA Hodges Property) which is a similar situation as the Burford property that was also donated to the city by an acquaintance of his. He asked what the city has done with the Burford property, and how legally binding are the conditions in these types of situations.

Rick Dumiak disclosed that he is a member of the T or C Planning & Zoning Commission, but he is speaking as a citizen and not a representative of the P & Z Commission. He also had comments related to the item F1 (JA Hodges Property). He had questions regarding the transfer of property to the city, whether or not it's deeded to the city, if there are conditions to the deed, and he asked why isn't anyone else able to bid on the sale of the property.

Mr. Dumiak also commented on item D5 (630 Charles Street). He spoke about a horrible incident that happened last week at that property involving an attack on a neighbor's dog. He also commented on the horrible conditions of the property and hopes the city does something to get that property cleaned up.

Diane Lombardo addressed the commission with concerns regarding the enforcement of face masks, the risk of contracting COVID-19 by people not wearing masks and she is concerned for the wellbeing of the public.

Marianne Wheeler spoke about the terrible conditions at the property of 630 Charles Street. She is glad that the city is doing something to get that property cleaned up. She hopes the city follows through with the process of cleaning up that property.

Sophia Peron asked that city staff members distribute filled sand bags to elderly and disabled people in the event of another flood. She would also like for the city to offer the Civic Center (with WIFI) to children who need a safe place to study. She also commented on the enforcement of masks, the use of city funds, the cleanup of this town and keeping vagrants off the streets.

Linda De Marino thanked the Streets Department for fixing up the roads immediately after the flooding.

City Manager Madrid read a letter from Christine Logan. (Complete copy attached hereto and made a part hereof).

City Manager Madrid read a letter from Chuck VanGelder (Complete copy attached hereto and made a part hereof).

Isaac Eastvold commented on the Return of the Swallow's Event that occurs annually and how he feels our local people should become involved in this type of event because

the Rio Grande is also used by many species of birds and their migrations including the swallows. He also noted that the wetlands element that almost addresses this opportunity was never implemented when the Healing Waters Trail was implemented.

**D. RESPONSE TO PUBLIC COMMENTS:**

Commissioner Forrister asked where Mr. Dunnum could go to get more information regarding his comment.

Mayor Pro-Tem Tolley responded that he believes the information Mr. Dunnum is searching for is kept at the County Clerk's Office.

Mayor Whitehead advised Mr. Dunnum to contact City Manager Madrid and Traci Alvarez regarding his questions.

City Attorney Rubin explained that the Hodges property would have been item F1 on the agenda. The sale of property contemplated that if we sold the property and the sale went through, the city was not making any representation regarding the title or warranty. However, that is not very satisfactory because that is an issue. The Hodges property is a very unusual situation because when the city acquired the property, it was from a deed back in the 1960's that had a limitation about the property being used for a specific purpose. In reality, what happened was 50 years has gone by, and the property was not used for any purpose, and anybody who was involved in the original transaction made no objection to the city not doing anything with the property. As far as we know there aren't any heirs available who are still around to contest this and with that being said, he did not feel comfortable proceeding with the agreement knowing that the restriction was out there so he filed a petition in District Court and he advised the court that they had this restriction and a possible sale, but we had an issue about the restriction. He wanted the court to remove the city of that restriction, and when he did that they also set up for a hearing which was published in the newspaper, that way if anybody had any concerns with the city proceeding they could have attended the hearing. The hearing came and went and nobody objected to it. The District Judge approved us moving forward with the sale without having worry about the restriction. The restriction involved in the deed was that the property be used for recreational purposes, but we already have other recreational facilities in that same area including the swimming pool. He then stated that he will provide the City Clerk with copies of the case should anyone wish to view the documents. He also added that concerns can be brought forward when this item is brought back to the Commission through a Public Hearing.

Mayor Whitehead announced anyone who has questions regarding Ordinance No. 709 can contact Traci Alvarez, and she can give you updates on what is going on, and let you know what we have done as far as the City Commission. She then thanked everyone who gave public comment.

Commissioner Forrister asked if the city is doing anything about Mr. Eastvolds comments regarding the wetlands and the Healing Waters Trail.

City Manager Madrid responded yes we are working with two different groups on the trail, but this is the first he has heard of the migrating species.

**E. CONSENT CALENDAR:**

- 1. City Commission Regular Minutes, July 22, 2020**
- 2. City Commission Special Minutes, July 29, 2020**
- 3. City Commission Emergency Minutes, July 29, 2020**
- 4. Acknowledge Regular Public Utility Advisory Board Minutes, June 15, 2020**
- 5. Acknowledge Regular Recreation Advisory Board Minutes, July 6, 2020**
- 6. Subrecipient Funding 4<sup>th</sup> Quarter Reports**
- 7. Accounts Payable July 2020**

Commissioner Forrister moved to approve the consent calendar as noted. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

**F. PUBLIC HEARINGS:**

- 1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 716 refunding of PPRF-5198 and new money for infrastructure projects, including the Loan Agreement, Intercept Agreement and closing documents:**

City Manager Madrid explained this is an item that has already been before you, and it is a refinancing of a previous agreement that was approved last year. It is before you today because the New Mexico Finance Authority saw an opportunity to refinance at a lower interest rate and save the city thousands of dollars in the repayment. The document in your packet changes the dates, but all other language is the same. Exhibit A1 and A2 has the interest rate of .688712% which is outrageously low. The terms would be the same; the reserve amount is pretty close to the same; and over the term of the financing we will save thousands of dollars. If we don't approve this agreement then we stay under the old agreement and pay more interest.

There were no opponents or proponents for this hearing.

Mayor Whitehead closed the public hearing.

**Mayor Pro-Tem Tolley moved to approve Final Adoption of Ordinance No. 716 refunding of PPRF-5198 and new money for infrastructure projects, including the Loan Agreement, Intercept Agreement and closing documents. Commissioner Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**G. ORDINANCES/RESOLUTIONS/ZONING**

**1. Discussion/Action: Resolution 07 20/21 Colonias Board Resolution to accept award/cash match:**

Grant/Projects Coordinator/Zoning Official Traci Alvarez explained that this resolution is a required document for authorizing the application and accepting the award that was given to us by Colonias for \$1 million dollars for a streets revamp in the downtown area where we are doing the downtown waterlines. This is a 10% loan of \$100,000; a grant of \$900,000; and a match of \$100,000. The loan term interest is 0%.

City Manager Madrid stated the match is already included in the final budget that was approved.

**Commissioner Forrister moved to approve Resolution 07 20/21 Colonias Board Resolution to accept award/cash match. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**2. Discussion/Action: Resolution 08 20/21 finding the property at 802 N. Bosque, Truth or Consequences, NM to be a dangerous and unsafe structure and authorizing demolition:**

Grant/Projects Coordinator/Zoning Official Traci Alvarez explained that the next four resolutions will all pertain to violations of various sections of the municipal code, specifically Chapter 4, Article IV, Sec. 4-226 thru 4-235: *Dangerous and Unsafe Structures*; Chapter 6 – Article VI, Sec. 6-71 thru 6-84: *Weeds, Alleys, Junk, Trash and Refuse* and Chapter 11 Article I, Sect 11-9: *Accumulation of refuse prohibited*. She will be requesting a procedure to abate for all 4 of the resolutions as defined in Chapter 4, Article IV – Sec. 4-231 included in your packet. This procedure requires a resolution, a copy of which will be served to the owner and/or posted to the property and published one time. The property owner will have 10 days to commence removal of structure or refuse, or file a written objection with the City Clerk asking for a hearing before the Commission. If the owner fails to commence removal or file an objection within 10 days, the City will commence with a property abatement, and the cost of which will constitute a lien against the lot/parcel from which the structure or refuse was removed.

Grant/Projects Coordinator/Zoning Official Traci Alvarez the reviewed Resolution 08 20/21. This property is located at 802 N. Bosque. The property has been vacant for the last several years and the owners have not brought it up to code or demolished/removed the structure. Neighbors have been complaining that it is a nuisance and brings down the moral and property values in the neighborhood. The structure is dilapidated, unsecured or abandoned and is an attractive, but dangerous nuisance to children who might play in the building, or a potential harbor for vagrants, criminals or persons. Property owners have been issued multiple certified letters, and the structure has been posted multiple times. No changes have been made to the property and no one has attempted to contact city offices.

**Mayor Pro-Tem Tolley moved to approve Resolution 08 20/21 finding the property at 802 N. Bosque, Truth or Consequences, NM to be a dangerous and unsafe structure and authorizing demolition. Commissioner Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**3. Discussion/Action: Resolution 09 20/21 finding the property at 901 N. Bosque, Truth or Consequences, NM to be a dangerous and unsafe structure and authorizing demolition:**

Grant/Projects Coordinator/Zoning Official Traci Alvarez stated that this resolution is referencing a property located at 901 N. Bosque. The property has been vacant for the last several years and the owners have not brought it up to code or demolished/removed the structure. Neighbors have been complaining about the property, and that it is a nuisance and brings down the moral and property values in the neighborhood. The structure is dilapidated, unsecured or abandoned and is an attractive, but dangerous nuisance to children who might play in the building or a potential harbor for vagrants, criminals or persons. The property was posted on 3/5/2020 & 5/29/2020, but the postings were removed. Certified letters were sent and unclaimed on 6/15/2020 and 7/23/2020 and the review of past files show a certified letter sent on 5/15/14 which was also unclaimed. A certified letter sent on 2/22/13 was signed/claimed by the current noted property owner and no changes have been made to the property since 2014, and no one has attempted to contact City offices.

**Commissioner Baca moved to approve Resolution 09 20/21 finding the property at 901 N. Bosque, Truth or Consequences, NM to be a dangerous and unsafe structure and authorizing demolition. Mayor Pro-Tem Tolley seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**4. Discussion/Action: Resolution 10 20/21 finding the property at 703 Jicarilla Way, Truth or Consequences, NM to be a dangerous and unsafe structure and authorizing demolition:**

Grant/Projects Coordinator/Zoning Official Traci Alvarez stated that this resolution is referencing a property located at 703 Jicarilla Way. There was a structure fire in January 2019, and the owners have not demolished/removed the structure. Neighbors have been complaining about the property, that it is a nuisance and brings down the moral and property values in the neighborhood. The structure is unsafe and dangerous to the life, health, property or safety of the public, and is uninhabitable and beyond repair. The property owner has been issued multiple certified letters, and the structure has been posted multiple times. The property owner's brother was residing in a camper next to the structure. He contacted our offices in May 2020 and was advised to move the camper to an RV Park and he was advised that the mobile home needed to be



demolished/removed from the yard. He stated that his brother was living in the burned structure, and he was not responsible for the property or structure. He was given 30 days to show progress towards relocating the RV Camper, and contact was made by the Police Department in June 2020. The brother stated that the property owner was deceased and he was going to sell the property. No further contact has been made, and it is unknown if he has vacated the camper.

**Commissioner Forrister moved to approve Resolution 10 20/21 finding the property at 703 Jicarilla Way, Truth or Consequences, NM to be a dangerous and unsafe structure and authorizing demolition. Mayor Pro-Tem Tolley seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**5. Discussion/Action: Resolution 11 20/21 requiring the prompt removal of accumulated rubbish, wreckage, and debris from the property at 630 Charles Street, Truth or Consequences, NM:**

Grant/Projects Coordinator/Zoning Official Traci Alvarez stated that this resolution is referencing a property located at 630 Charles Street. Since at least February 20, 2019 there has existed an accumulation of rubbish, wreckage and debris on the residential property at 630 Charles, and the accumulated rubbish, wreckage and debris violates the city's ordinances relating to the use of residential property and, in particular, violates Section 6-72 of the City's Code of Ordinances, prohibiting the accumulation and presence of materials that would inhibit reasonable egress from the property and reasonable access to the property by the Fire Department in the event of fire or other emergency; and constitutes a menace to the public comfort, health, safety and welfare. The property owners were taken to court on March 2019 and the court has ruled against the owner and has imposed fines. The owner has removed a small amount of rubbish, wreckage and debris from the property, but on the whole the owner has been recalcitrant and refused to comply with the instructions of the court, so that a large amount of rubbish, wreckage and debris remains. The owner was served a final notice on 7/23/2020 and the notice was posted to the property. The owner contacted her office stating she has been removing refuse. An inspection of property was done on 8/3/2020 and again showed little progress being made. Neighbors have been complaining about the property, stating that it is a nuisance and brings down the moral and property values in the neighborhood. There have also been complaints that it smells, and it is causing rodents and bugs to accumulate on neighboring properties.

**Commissioner Baca moved to approve Resolution 11 20/21 requiring the prompt removal of accumulated rubbish, wreckage, and debris from the property at 630 Charles Street, Truth or Consequences, NM. Mayor Pro-Tem Tolley seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

## **H. OLD BUSINESS**

### **1. Discussion/Action: Consideration of amendments to Resolution 33 19/20 pertaining to a back to work plan for the City of Truth or Consequences:**

City Manager Madrid read a letter submitted by Commissioner Aragon. (Complete copy attached hereto and made a part hereof).

City Manager Madrid continued by saying that the Governors Order is not in question; the necessity of masks is not in question; and the authority of this Commission is not in question. We will carry out whatever is directed to us. He has not been made as aware of the concerns in the letter he read. When he and the Police Chief have been aware of concerns, those concerns have been addressed. He wonders how many people are really concerned about this, and why are they not contacting the Police Chief Apodaca or himself. It may be that there are a few people who are trying to direct the actions of the entire community and that's not healthy for a community. He hasn't had anyone directly come to him with the issue, the number of cases in the state is going down, and there has been better compliance with people wearing masks. One of his major concerns is that there are people who will take this opportunity to provoke our law enforcement officers when they are trying to give a citation and then it escalates from there them wanting us to de-fund the Police Department. At what point do we stop expecting personal responsibility from our community, and expect the Police Department to play that role in enforcing that. Every Law Enforcement agency in the Country changed their policies to minimize contact to protect their officers when the pandemic first started. We have a very small Police Department and if we get active cases within our Police Department we could have our department cut in half in a matter of days and that is a huge concern to him. The State Police Department sat outside a certain business for a period of time and watched how many customers went in, and came out without a mask, and then they cited the business owner for not enforcing the policy. The real motivation is if people can't get what they want, they'll put a mask on because people are not too afraid of the citation itself.

Mayor Pro-tem Tolley agreed that at some point people need to take personal responsibility, and he is hesitant to require more of our Police Department when there is so much up in the air of how people view law enforcement, but he takes exception to the concern about not enforcing the mask requirement because of concerns for our officers. Their job is an at risk profession so he doesn't take that as a legitimate reason to not require the enforcement of masks. He strongly disagrees with us siting the businesses and not the individuals. He feels that we need to hold the individual accountable. If we're not going to fine individuals for it, then we definitely should not be fining businesses. We either penalize both or we penalize neither.

City Manager Madrid stated that he should have been clearer when somebody says that the Police Department is not enforcing, that's an assumption, and absolutely not true. The Police Department does respond and take action when there is a situation that



needs to be addressed. Giving someone a piece of paper doesn't necessarily solve the problem, removing them from the area does and that's what our Police Department concentrates on.

**I. NEW BUSINESS:**

**1. Discussion/Update: Status of Emergency Declaration:**

Wilson & Company gave an update on the Status of Emergency Declaration. (Complete copy of presentation attached hereto and made a part hereof).

**2. Discussion/Update: City Wide Projects Update:**

Wilson & Company reviewed the City Wide Projects. (Complete copy of presentation attached hereto and made a part hereof).

**3. Discussion/Action: ICIP Projects and Ranking:**

Grant/Projects Coordinator/Zoning Official Traci Alvarez gave a presentation on the ICIP projects. (Complete copy of presentation attached hereto and made a part hereof).

Ms. Alvarez then asked that the Commission make their project recommendation's and rank the projects.

**Commissioner Forrister moved to table this item until the Aug 26<sup>th</sup> meeting to give them additional time to review the material. Mayor Pro-Tem Tolley seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**4. Discussion/Action: Resolution No. 06 20/21 to accept the ICIP for FY 2022-2026:**

**Mayor Whitehead moved to table this item until the Aug 26th meeting to give them additional time to review the material. Mayor Pro-Tem Tolley seconded the motion. Mayor Pro-Tem Tolley seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**5. Discussion/Action: Request to the City of Truth or Consequences for membership in the South Central Council of Governments (SCCOG) for FY 2020-2021:**

City Manager Madrid explained that this item is for our membership with the South Central Council of Governments (SCCOG). They are associations of local governments for both cities and counties throughout the state. He asked for approval to continue our participation and pay our membership dues in the amount of \$2,187. The South Central

Council of Governments (SCCOG) are very valuable in assisting us with legislative content, CDBG applications, they provide administrative support, public relations and they are mainly there to support local governments in any way they can.

**Mayor Pro-Tem Tolley moved to approve Request to the City of Truth or Consequences for membership in the South Central Council of Governments (SCCOG) for FY 2020-2021. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**J. REPORTS:**

**City Manager Madrid reported the following:**

- He had Airport Manager, Orlando Saavedra give a brief presentation on the dirt runways at the Airport.

**City Commission Reports:**

**Mayor Pro-Tem Tolley reported the following:**

- Mayor Pro-Tem Tolley asked City Manager Madrid if they are going to discuss live/work permits and/or the Planning & Zoning Commission at our next meeting.

City Manager Madrid said on the Planning & Zoning membership's yes. Probably not on the live/work permits because we are trying to address those administratively. When it comes to the board memberships, our City Clerk updated the application and we have added a statement regarding a conflict of interest. The statement says that I certify that my appointment does not present, nor will it present any future conflicts of interest, if there are any they will be disclosed to the board and to the City Clerk. We did that so we won't bring something to you with a conflict of interest in it and then you approve it without the knowledge.

- Mayor Pro-Tem Tolley asked if we can hold off on making any final decisions in regards to revoking any existing live/work permits during the pandemic. He doesn't feel that this is the appropriate time to close businesses and/or evict people from residences.

City Manager Madrid responded that he and Ms. Alvarez discussed that, and the pandemic is a special circumstance, and businesses could make the argument that they can't be in business due to the pandemic so he feel that is a reasonable request.

- Mayor Pro-Tem Tolley asked if it is the will of the Commission to allow City Manager Madrid to handle the requests of board members that were appointed by the City Commission. This question came up due to Planning & Zoning members who were requested to resign. He feels this should be handled by the Commission rather than administratively.

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City Attorney Rubin responded by saying something this important should really be on the agenda.

Mayor Whitehead stated if one of you Commissioners are aware of something and you would like it added to the agenda you can either call her or City Manager Madrid and request that an item be added to the agenda.

**Commissioner Forrister reported the following:**

- She would like for the Commission to have weekly updates from City Manager Madrid.

**Mayor Whitehead reported the following:**

- She announced that the City Commission will have a Special Work/Session Retreat on August 19<sup>th</sup> at 9:00 a.m. in Kingston.

**M. ADJOURNMENT:**

**Commissioner Forrister moved to adjourn at 12:53 p.m. Commissioner Baca seconded the motion. Motion carried unanimously.**

**Passed and Approved this 26th day of August, 2020.**



Angela A. Torres, CMC, City Clerk

  
Sandra Whitehead, Mayor