

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, SEPTEMBER 28, 2022**

A. CALL TO ORDER:

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

B. INTRODUCTION:

1. ROLL CALL:

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

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

Also Present: Bruce Swingle, City Manager
Traci Alvarez, Assistant City Manager
Angela A. Torres, City Clerk-Treasurer
Victor Rodriguez, Chief of Police

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Forrister called for City Attorney Rubin to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

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

C. PUBLIC COMMENT (3 Minute Rule Applies):

Kathleen Sloan addressed the Commission with comments related to:

- (1) She commented on the Solid Waste Department, and the purchase of the Loanstar Freightliner. She feels that we should not buy a quarter million dollar truck unless we know the work it will do, and if it will earn back the cost, and we don't know that. She wrote each of the Commissioners last month about this issue with research of the cost of the Solid Waste Department provided. The city has already busted out three of its utilities, and now it is applying the same failed government and business practices to the Solid Waste Department. There is no transparency or business plan.

D. REPORTS:

City Manager Swingle reported the following:

- He gave kudos to staff. Everyone is working very hard and diligently to get things done.
- He gave a special kudos to David Johnson for doing vector spraying around the county fairgrounds for the county fair. He will have at least one more trip between now and the time of the event to ensure that it is rid of mosquitos. County staff said that the mosquitos are very intolerable this year. They had a lot of weeds, so they cleaned them out and they found a lot of setting water on the property so David was able to go in and insure that the folks have a good county fair.
- Water leaks are continuing to be a problem. We have around 30 water leaks right now. The gushers are being addressed immediately. We have one staff member who is working on water leaks, and between that, and the Vac Station, the time is being divided for water leak repairs. He and Water/Wastewater Director Pete English sat down and talked about a strategy of moving forward so they can get as many of these leaks fixed as soon as we can. We ask for the public's patience and understanding. We appreciate them reporting them to us, but it is not going to get them done any quicker by reporting them every day. We know about most of the leaks and we still want people to call them in because some of surfacing that we don't know about. They are getting to them as fast and efficiently as they can. It is not a short term fix. We are going to continue to have water leak problems for the foreseeable future and until we get adequate funding to address the lines across the city.
- The Chamber of Commerce has taken the lead on the Infrastructure bond, and boy have they. They have done a fantastic job, and they're going to kick off their marketing plan any moment now. They have all of the information they need to insure success, so we are very excited about their efforts. They are spending 100% of their energy on ensuring that the bond succeeds.
- We still have vacancies on our advisory boards. He did a radio station interview out of Las Cruces on 91.1, and he talked about the significance of volunteers, and how important they are to communities across the country. He thinks that the interview went very well. The reporter was aware of the struggling efforts for all of the entities to get volunteers to help out in communities, so hopefully this will

help. We still have vacancies on the Airport Advisory Board, Golf Course Advisory Board, Impact Fee Advisory Board, and Recreation Advisory Board. Yesterday the Lodgers Tax Advisory Board recommended appointment of their final member and it will be on the next meeting agenda. It wasn't timely to have it on this agenda.

- You have an item on the agenda today about the NMDOT Roundabouts, and modifying the agreement that we have with them. This is the first amendment to the agreement, and I'll talk more about that when we get to that item on the agenda.
- We had the Court Committee Public Hearing on Monday to discuss the courts, and at this point we will wait to have the minutes from the meeting. We will schedule a follow up meeting with the committee members, and put everything together as the committee wants to, and then we will take it to the full board for consideration.
- The Chief of Police is retiring. Friday is his last day, and we are having a little get together at the Civic Center on Friday to say goodbye to the Chief. The Commissioners are certainly welcome. It will be at noon on Friday. The Rotary Club has said goodbye to the Chief for the last 4 weeks now. The respect the community has for him is amazing. I've had nothing but positive comments from everyone in the community wishing the Chief would stay. It is certainly understandable of his ability to retire, and the desire to be with his family, which I think we all want that, so we certainly can't criticize him for that. We wish him the absolute best of luck on all future endeavors. He will be sorely missed. We are starting to get a few applicants in for the Chief of Police position, and we may be able to set up interviews as early as next week. It will be very likely that most of the interviews will be done via zoom because we have several out of state applicants.
- The Commissioners asked that he reach out to the Office of the State Engineer about coming to the Commission and having a workshop regarding the geothermal water. They lack a lot of expertise, and knowledge, of the geothermal water. They're kind of hashing it out through the Albuquerque Office. The Las Cruces Office, and the Santa Fe Office, of who would be in the best position to come and talk to the community, and the Commissioners about the geothermal water. We will get it scheduled as soon as they can come in. Ideally, I would like to have it on the same day as a commission meeting. We can do it an hour before, and have the workshop if that is amenable to the State Engineer's Office.
- We were notified that we received \$1.6 million dollars in the Congressional Rec. spending Bill. We asked for \$54 million for water and wastewater, and one administrative project for the electric department. However, we received \$1.6 million for the Water Department for critical needs. We are not certain on the timeline of how soon we will get the money, but I do believe it will be in the very near future that we will start seeing action from the Feds in processing that to move forward with the project. Hopefully, we'll get more next year because we did articulate our justification, and the critical needs of our Water, Wastewater, and Electric Department.

City Attorney Rubin reported the following:

- He really enjoyed working with Chief Rodriguez and he wishes him the best.

City Commission Reports:

Commissioner Mitchell reported the following:

- She reported on the Geronimo Springs Museum's 50th Anniversary. It was a really good turnout. There were a lot of community members there. There were also a lot of new people who had never been there before. She did one of the ribbon cutting for the pottery room as they opened up a new display. They had an old west shoot out show with Doc Holliday in the Plaza. It was really neat, and it was a good experience to see how far the museum has come. Especially in the past 50 years.
- She got a card from the Balneology Association when she and Mayor Pro-Tem Hechler went to the dedication for Kathy Clark. NMSU is also coming up on October 21st to take a group of high school student's downtown to do a geothermal project where they are going to learn about the water temperatures, and that kind of stuff.

Commissioner Fahl reported the following:

- The Geronimo Springs Museum's 50th Anniversary was pretty exciting. They had a really good turnout. There were a lot of people who had never toured the museum before. She appreciated Commissioner Mitchell for coming and doing the ribbon cutting. They tried to do that for each Municipality, to have them come for some sort of ribbon cutting for a special room, so that was good.
- She asked City Manager Swingle how the Water Department prioritizes the water leaks.

City Manager Swingle: That's a great question. The director assigns work activities for his crew, which is only one individual at this point. Generally he needs additional staff to help with the digging, operating equipment, and things of that nature. We still have sewer backup problems with the Vac Station on Riverside, and that has been an ongoing problem, and all hands get called because we have sewer backing up into homes. There is one individual who is working in water right now. There were some new hires that were recommended, and they are going through the background checks, and drug testing for those individuals to get them on board which I'm sure people have been hitting the ground running to deal with some of these. We are also looking at bringing in contractors who have their G9 certifications so they can actually go and do the work on these leaks. One of the issues that came up, and it is not something that we've historically done is that we have to have at least a Level 2 Water Operator onsite for all water repairs and the only one we have in the organization is our Director Pete English, and that really limits what we can do.

Mayor Pro-Tem Hechler reported the following:

- He thanked Chief Rodriguez for his service, and he wished him well.

E. CONSENT CALENDAR:

- 1. City Commission Regular Minutes, September 14, 2022**
- 2. Public Utility Advisory Board Minutes, August 15, 2022**

Commissioner Mitchell moved to approve the Consent Calendar with an amendment to the City Commission Minutes. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

F. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Discussion/Action: Resolution No. 11 22/23 Budget Adjustment Resolution:**

City Manager Swingle reviewed the Budget Adjustments provided in the packet.

Commissioner Fahl moved to approve Resolution No. 11 22/23 Budget Adjustment Resolution. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 2. Discussion/Action: Approval of Resolution 12 22/23 Adopting a Wastewater Sanitary Sewer Asset Management Plan:**

Alfredo Holguin Wilson & Company, Inc. reviewed the Municipal Wastewater Asset Management Plan. (Complete copy attached hereto and made a part hereof).

Commissioner Mitchell moved to approve Resolution 12 22/23 Adopting a Wastewater Sanitary Sewer Asset Management Plan. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 3. Discussion/Action: Publication 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: What you have before you is an amendment to our existing ordinance to capture Airbnb type revenues and taxes. We have a lot of Airbnb's in the community, and I think for the most part, most of the property owners believe that Airbnb is actually taking out Lodgers Tax, and providing that revenue to the city, but that is not the case. Our ordinance doesn't allow for that. Our ordinance requires the property owners to pay their Lodgers Tax to the city. This amendment will allow a market place provider such as Airbnb, and any others who are out there to collect the revenue. They are already collecting the fee for the space and taxes, but they are not collecting the Lodgers Tax so this amendment will allow them to do that. We forwarded our amendment to Airbnb so their legal can look at it to ensure that it meets all of the

caveats that they want in the language. They looked it over and agreed to this and they are willing to take on that responsibility as soon as the ordinance is passed. This should generate a lot more revenue that we are currently missing. Just in this quarter alone, we are \$70,000 above last year's revenue, and last year was an exceptionally good year in Lodgers Tax. The Lodgers Tax Advisory Board met this week, they reviewed the amendment and they are in full support of this.

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

E. NEW BUSINESS:

1. Discussion/Action: Consideration of appointment of Greg D'Amour to the Sierra Vista Hospital Governing Board:

City Manager Swingle: Member Cookie Johnson resigned from the board due to personal matters that she has to attend to so there is now a vacancy on the board. We advertised the vacancy and the only candidate who submitted a letter of interest was Greg D'Amour. Greg has served on the board for a long time. He was the Chairman of the Board at the time of his non-re-appointment from the County so I think it is important to know that in my experience on the board, the hospital staff finds a lot of comfort in Greg serving on that board, and in the capacity as Chairman. I think you've seen Greg's Credentials. He knows health care by nature of his career path and there is a lot of comfort by the hospital staff, as well as the hospital board members. If you look at our hospital board today, there are a lot of new folks on it, and that type of leadership is very important. I am currently the Chairman of that board, and the first thing I will do at the next meeting is to have it on the agenda for another election for Chairman if the Commission goes forward with this appointment. That will give the board the opportunity to select him as Chairman should they choose to do so, and I really don't have any doubt that they will because it is a tremendous comfort by having him there.

Commissioner Fahl moved to appoint Greg D'Amour to serve as a member on the Sierra Vista Hospital Governing Board. Commissioner Mitchell 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 over \$20,000 provided in the packet.

Mayor Pro-Tem Hechler: What is the justification for the purchase of the Loanstar Freightliner?

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City Manager Swingle: Andy needs the equipment and we want to have cleanups in the community. We want to be able to brig dumpsters to an area of the community to provide cleanup days. Typically when you do free clean up days people have to go to the Convenient Center and take their material there when we have a cleanup day. We can do this in spot locations as needed with this equipment to do that. I know that the idea was brought up that we could generate some revenue, but this is not going to be a revenue generator in the sense that it will bring a robust amount of revenue to the city. This is for operations to provide sanitation services to the community, and most importantly to ease the operations for the public so that we can clean up communities and areas.

Commissioner Fahl: I think that it's difficult for a lot of people if they don't have pickups, and if they don't have trailers to haul things off, so I think it's a good idea. It would probably help clean up our community.

City Manager Swingle: We get a lot of questions about large item pickups, and this gives us the option of potentially going out into the community on certain dates, and picking these things up, because there are people who just don't have the means of doing it.

Commissioner Mitchell: Is the City of T or C able to rent this out to construction agencies or something like that as a potential revenue source?

City Manager Swingle: There could be some revenue generated from that, but it's not a large amount of revenue.

Chief Rodriguez: I really think this will really help on the Code Enforcement side of things. It will make it more accessible for individuals to clean up, instead of leaving the stuff on the side of their house, or only cleaning up a little bit at a time because they don't have the means to dispose of it, so the message of beautification access is really important here.

Mayor Pro-Tem Hechler: I have some questions on the justification. We used to use them at my prior job at Elephant Butte. We'd order roll offs for the park, and we had them set in strategic locations, and we paid \$5,000 to \$7,000 a weekend to have these roll offs filled up and hauled off by a private contractor. I'm just trying to justify the \$241,000 expense, versus renting roll offs from a private contractor several times a year. I need to understand that justification part of it.

City Manager Swingle: We can have Andy present at the next meeting if you would like to hear from him directly.

Mayor Pro-Tem Hechler: I understand the benefit to the community wholly. I'm just trying to weigh that against a private contractor bringing in roll offs 2-3 times a year for specific events or areas vs. having a brand-new truck, because I wonder how much it would be used. Will that truck take the trailer to the landfill full of trash, or will it dump it

here locally? Questions like that need to be answered. I'd like to table this until we get some questions.

Commissioner Mitchell made a motion to approve the Purchase Requisitions over \$20,000 with the removal of the Loanstar Freightliner Group item. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Approve recommendation from the Recreation Advisory Board to amend the Municipal Code of Ordinance to combine the Golf Advisory Board with Recreation Advisory Board:

O.J. Hechler, Community Services Director: What we have here is a recommendation from our Recreation Advisory Board to combine these boards. What we're asking today is if we should move forward with the steps to amend the Municipal Code as it pertains to these two boards. We would first do a draft amendment, and take it to the Recreation Advisory Board for their recommendation, and then we would bring it back to the Commission for publication, a public hearing and then final approval. So, we're asking if we could proceed. I'm not exactly sure how it will look yet. Part of the issue is that we're so specific in our current Municipal Code, and we're having a hard time filling some of these positions. Currently, we're two positions down on our Recreation Advisory Board, and five positions down on the Golf Course Advisory Board. Maybe we can combine it with some disc golf, and golf members, and then the Golf Course Superintendent would be a nonvoting member. We will narrow down specifics, and bring it back to the Commission after it goes to the Recreation Advisory Board.

Commissioner Mitchell: When doing this, can you clean up the language so we have a little bit more leeway, and we're not tied into this ordinance so we'll have a little bit more flexibility moving forward.

Commissioner Mitchell made a motion to allow staff to move forward with amending the Municipal Code of Ordinance to combine the Golf Advisory Board with Recreation Advisory Board. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Approval of Agreement between the County of Sierra and the City of Truth or Consequences for Administration and Enforcement of the City's Floodplain Management Regulations:

Traci Alvarez, Assistant City Manager: The city and county are both participating communities in the National Flood Insurance Program, and currently the city does not have a Flood Plain Director, so we use the services of the Floodplain Administrator from

Sierra County to take care of the flood services within the city, and he currently does anything that has to do with a state building permit. CID requires that not only I sign off as zoning approval, but they require that our Flood Director sign off on it as well. If it's a big build, and it involves something that's within our floodplain, he works with our engineer that reviews those and lets him know what is required to meet all of the directives. This is an annual agreement that we've had in place for the last couple of years, and this is just this year's agreement.

Commissioner Fahl made a motion to approve the agreement between the County of Sierra and the City of Truth or Consequences for Administration and Enforcement of the City's Floodplain Management Regulations. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Approve amending the NMDOT Utility Cooperative Agreement and Landscaping Agreement for the NMDOT I-25 Business Loop Roundabout Project:

City Manager Swingle: I apologize for not getting this document to you until the last minute. The state worked very diligently to get it done, and get it on this agenda, so we would have it available. They are kind of in rapid mode to try and get the project awarded out. Time was really imperative to have this on the agenda. We do however, need to modify that request. It's not going to address the Utility Cooperative Agreement. They ultimately thought it would, but their legal council decided that it's just the Landscaping Agreement. Thus far, the city has paid over \$900,000 for the landscaping, and for the installation replacement of water and wastewater lines through the corridor of the roundabouts. They put the project out to bid, and the cost came in higher just like we would expect under the present climate. Initially, they wanted us to find additional money to cover the cost, but we were pretty adamant that we had no more money to give them, and this was really the second increase in cost that we'd be experiencing on the project. I have to give NMDOT leadership credit for really trying to work with us, and understand our financial position as a community. They cannot use their funds for the infrastructure of water and wastewater, so what they're going to do is move some of the money that was dedicated for the landscaping to that. They can use their money for the landscaping, and they are already putting in a hefty chunk of money for the landscaping, so this was a really good resolution for the City of Truth or Consequences. We are very appreciative of them for working with us to come up with a solution that wasn't going to cost us anymore money.

Mayor Pro-Tem Hechler made a motion to amend the NMDOT Utility Cooperative Agreement and Landscaping Agreement for the NMDOT I-25 Business Loop Roundabout Project. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Accept and Approve EAA's (Experimental Aircraft Association) Proposal as recommended by Airport Advisory Board:

Traci Alvarez, Assistant City Manager: As part of the agreement the city entered into with the Experimental Aircraft Association (EAA) for use of the hangar around the airport, the association was to develop and submit a plan to the Airport Advisory Board to construct campsites at the airport for transient pilots. Included in your agenda packet is the proposal that the EAA submitted to the Airport Advisory Board, and the Airport Advisory Board did recommend this to the City Commission for their review and approval.

Robert McGuire EAA Representative: There have been some plans developed for the parking places. They would also like to see if you could approve the fly in for November 6th. We need to have that approved pretty quickly so that we can have plans and get them in place, and get the advertisements out.

Mayor Pro-Tem Hechler: I understand that you want to set up three camping spots, and Pilots will be able to fly into those camping spots, spend the night, and they would hub there to fly in other locations, but return to the camping spot.

Robert McGuire EAA Representative: Yes. We are looking at three camping spots with shade and picnic tables, so they can tie their airplane down overnight, or during the day if it is windy. This is a courtesy type of deal.

Mayor Pro-Tem Hechler: I'm noticing that you are relying on the city to donate some tables for this cause. I believe those tables are going to be used in other parks, and that's the priority first. I also noticed that you may have some other funding sources available. Would you be opposed of taking it back to the EAA, and have them apply for other funding sources?

Robert McGuire EAA Representative: Yes, we could do that. We have another source for tables.

Proposals attached hereto and made a part hereof.

Commissioner Fahl made a motion to approve the EAA's (Experimental Aircraft Association) Proposal as recommended by Airport Advisory Board with the stipulation that the EAA find their own funding for the proposed projects. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

7. Discussion/Action: Approval of Agreement between the City and Sierra Electric Cooperative to develop a procedure to allow for random alcohol testing of CDL operators:

City Manager Swingle: This is a service that we have been providing to Sierra Electric Cooperative for some time now and it literally had no cost. The Chief being the leader that he is, wanted us to reduce this into writing. We used to provide the test at no cost, but now there is a \$10 per test fee to pay for the supplies and the time that the individuals use performing the test. The Co-op board has approved this agreement at their last board meeting, so you would be the final step to approve this.

Commissioner Mitchell made a motion to approve the agreement between the City and Sierra Electric Cooperative to develop a procedure to allow for random alcohol testing of CDL operators. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Approval of the Police Department Vehicle Pursuit Policy:

Victor Rodriguez, Chief of Police: This is the Vehicle Pursuit Policy for the Police Department. As you will see, what we're trying to do is clean up the language to give the officers flexibility. There's a lot of different things that could result in a pursuit, but at the same time we also want to make sure that they're safe, and that they really think about whether it's worth initiating or engaging. Some of the minor changes is to the word felony. It has been changed to the word crime. On Subsection 8, Page 1, it changed from felony to crime, and on Subsection G, instead of saying serious felony, it was changed to serious crime, because there are misdemeanors that could be sentenced such as domestic violence, reckless driving, and driving under the influence. Also, incidents including firearms could be a reason for a pursuit. I wanted to clean up the language and make sure that this was taken care of before I leave.

Commissioner Fahl made a motion to approve the Police Department Vehicle Pursuit Policy subject to the amendment mentioned by Chief Rodriguez. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Approval of the Police Department Retired Officer Concealed Carry Policy:

Victor Rodriguez, Chief of Police: Right after 9/11 happened, President George W. Bush, in his term, created the Law Enforcement Officer Safety Act which is called the (LEOSA). It is for Law Enforcement Officers to carry a concealed weapon without having a concealed carry permit. We did not have a policy, and we have had some police officers who have retired from here, who wanted a concealed carry. This sets the

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policy and allows them to have the label of a retired officer who has left in good standing, and who has no negative mental instability and things off that nature to carry a concealed weapon. In order to qualify for this, you have to have served at least 10 years in total in law enforcement, and at least one year after probation with the City Police Department. You also have to have yearly firearms qualifications by a New Mexico approved instructor, and you have to submit those qualifications to the Police Department for record keeping to show that you are actually doing so. Also, while they carry this officer designation, if they do anything outside of contradiction law, such as having a mental breakdown or something of that nature, we can revoke it and require them to return it. This just puts it in writing and policy. City Attorney Rubin found a correction at the very last paragraph under number 11 which said, "A retired officer that fails to adhere" it now reads, "A retired officer that fails to adhere *to all applicable sections* contained in this policy." That is the only change, and we ask for approval.

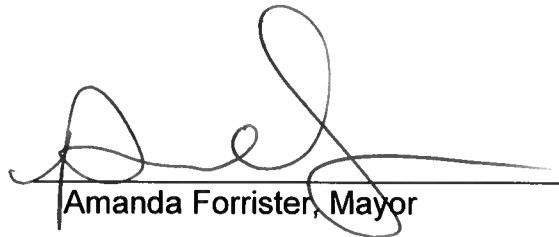
Commissioner Mitchell made a motion to approve the Police Department Retired Officer Concealed Carry Policy subject to the amendment mentioned by Chief Rodriguez. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

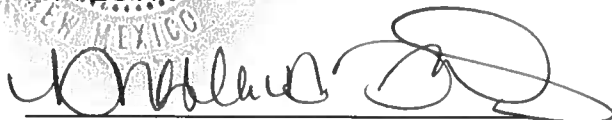
J. ADJOURNMENT:

Mayor Pro-Tem Hechler adjourned the meeting at 10:50 a.m.

Passed and Approved this 12th day of October, 2022.




Amanda Forrister, Mayor


Angela A. Torres, CMC, City Clerk