

CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
WEDNESDAY, SEPTEMBER 9, 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. Paul Baca, Commissioner  
Hon. Randall Aragon, Commissioner  
Hon. Amanda Forrister, 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 Aragon to lead the Pledge of Allegiance.

**4. APPROVAL OF AGENDA:**

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

**C. COMMENTS FROM THE PUBLIC:**

City Manager Madrid read public comment submitted by Merry Jo Fahl. (Complete copy attached hereto and made a part hereof).

**D. RESPONSE TO PUBLIC COMMENTS:**

Mayor Whitehead thanked Ms. Fahl for submitting her letter of interest.

**E. CONSENT CALENDAR:**

- 1. City Commission Regular Minutes, August 26, 2020**
- 2. Accounts Payable August 2020:**

**Commissioner Baca moved to approve the consent calendar as noted. Commissioner Aragon 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. 709 amending the Code of Ordinances by adding a Section related to Sale of Real Property pursuant to §NMSA 1978 3-54-1:**

City Manager Madrid explained that this item has previously been before you for approval of publication, and now it is back for final adoption.

Traci Alvarez, Planning & Zoning Official explained that we have an offer for a purchase of city property. The property has been appraised, it has been advertised, and we had to do a release for the deed because the property was deeded as a recreational property. At this time we are asking to proceed and accept the offer to purchase for the appraised value of the property.

City Attorney Rubin further explained that we had the property appraised and it came in as twenty-six thousand dollars (\$26,000) which is very significant because under section 3-54-1, if you have an appraised value in excess of twenty-five thousand dollars (\$25,000) you have to sell the property through an ordinance procedure. If it came in one thousand dollars (\$1000) less than we wouldn't have had to go through this procedure. We received an offer for twenty-six thousand dollars (\$26,000) which is equal to the appraised value. We prepared this ordinance several months ago and when we were getting ready to close we discovered that there was a problem with the title. When the city acquired the property back in the 1960's there was a restriction that stated the property had to be used for recreational purposes only. In terms of the ordinance we didn't have to address that because the purchaser acknowledged that they were buying the property as is; the city was not making any warranties or representation regarding the real property; and the status of the title was used for development. We could have gone through with the sale at that time. However, just as a gestor of good faith, we decided to take action to file a petition in the Sierra County District Court. While going through the process we published in the newspaper, and there was a hearing during the course of proceedings where the judge approved our petition to reform the deed so the city wouldn't have to worry about the restrictions, and

we are now free to sell the property. This ordinance basically says that we are selling this property of lots seventeen (17) through twenty-two (22) in Block twenty-seven (27), Palomas, Hot Springs Townsite, in the City of Truth or Consequences, New Mexico, Sierra County in the Northwest corner of the intersection of Wyona venue and Clancy Street. The city advertised this property before we received this offer, and he believes that is where the Depalma's found out about it.

Commissioner Forrister asked for clarification on the advertisement.

Traci Alvarez, Planning & Zoning Official stated that the Depalma's reached out to her stating that they were interested in the city property. Her procedure is anytime there is an interest in a property we move forward with an appraisal, and then we do advertisements. We don't do the legal advertisements. We actually do color ads in the paper and put the property up for sale like a real state ad. She received two other phone calls when we first advertised in 2019, and she told them both how to submit an offer to purchase through her office, but she never received anything after that.

Mayor Whitehead opened the Public Hearing.

**Opponents:**

City Manager Madrid read the letter submitted by Lillis Urban which read:

Greetings Mayor, Mayor Pro Tem, and Honorable Members of the Commission,

As a property owner in the Historic Hot Springs Townsite, I would like to respectfully caution the City against the Final Adoption of Ordinance No. 709, and against moving forward with the sale of city-owned parcels in the Hot Springs Townsite.

Prior to selling or disposing of any city owned parcels it would be advisable for the city to first undertake a thoughtful Open Space Plan - A plan that takes a comprehensive look at parcels that are owned by the city and how they may, or may not prove, beneficial or important as a part of a comprehensive Open Space plan for our community, and our visitors. This assessment would look at lands within the city boundary that may play a part in recreation, outdoor access, trails through town, trails that could articulate with "blue" trails on the river, trails or places that could serve as connections to BLM lands, or to State owned lands, etc.

A key driver in attracting visitors, and future residents, to Truth or Consequences is our setting and our outdoor access. Parks and trails within the boundary of our city are assets to our visitors and our residents alike.

It is easier to dispose of property then it is to acquire it; and I imagine that the city does not own many parcels in the Hot Springs Townsite. As such, these parcels are potentially rare commodities for our town and our community. A comprehensive, thoughtful assessment of city-owned properties in the context of an Open Space Plan may reveal that these particular parcels

## CITY COMMISSION SEPTEMBER 9, 2020 REGULAR MEETING MINUTES

are best disposed of and sold. However, until a comprehensive assessment has been undertaken the City Commission cannot know the real potential use or potential value of the parcels.

I urge the City Commission to postpone this sale and first engage in careful planning. Now is an opportune time to embark on such an Open Space Plan. As the City Commission is aware, planning is underway for a riverside trail connecting the City of Truth Or Consequences with the Village of Williamsburg complete with two pedestrian footbridges. In addition, the recently passed Great American Outdoors Act could be a vehicle to fund an Open Space Plan for Truth or Consequences. In support of the city's potential application for funds through the Great American Outdoors Act is the New Mexico Statewide Comprehensive Outdoor Recreation Plan (acronym name: SCORP) for 2016-2020. Objective 1.1 from the NM SCORP is to: "Increase the number of communities that have prepared parks, recreation, open space and trail master plans". The attendant action for this objective is to: "Identify local government gaps and needs by preparing city and county parks, trails, open space and recreational facilities inventories, assessments, level of service and accessibility analyses." The City Commission could also engage the newly (re)formed Planning and Zoning commission as partners in the effort to develop an Open Space Plan for TorC.

Lastly, the economic benefit that the city stands to gain from the sale of these particular parcels (\$26,000) is, in my opinion, pale in comparison to the potential benefit that such open space may provide to the residents and visitors of Truth or Consequences now, and for many generations into the future.

It is an exciting time for Truth or Consequences. Our community is well positioned to become an ecotourism hub in southern NM. Let's hold onto our city's open space, and take a careful look before selling.

I think we will be glad that we did.

Thank you for your time and consideration,

Lillis Urban

### **Proponents:**

Nate Stephens explained that their plan for this property is to develop it, and bring the concern's Ms. Urban mentioned in her letter. Right now there are one hundred twenty-three (123) places for sale in Sierra County, and all of them are under contract except for forty-six (46) properties. There are no longer any homes to sell to people who are coming into our community. Their plan for that property is to build homes that will attract new people to our community, and to have upstanding citizens who will be living in a new home on a nice property. They want to help the downtown Hotsprings move forward because right now it is stagnant, and it has been stagnant for a long time. There are a couple of new businesses coming in (which is good), but they need nice housing to attract more people. If somebody comes here and wants to live downtown, right now they have to buy a 1940 home and re-model it, and at the end of the day they are still



living in a 1940 home. The Depalma's want to offer people 2020-2021 homes which they feel will attract more money and people to our city.

Commissioner Forrister asked Mr. Stephens what his connection is with the Depalma's.

Nate Stephens responded that he is their contractor. When Ms. Depalma first came to him she wanted to build a house in Elephant Butte, and told her that the Hotsprings district needed help. They built a brand new home on 1714 Van Patten which is only 3 days old, meaning that there is a high interest for people wanting to live in the Hotsprings district, but they don't want to live in a tore down area. Their plan is to build that area back up.

Claudea Depalma stated that she contacted Traci over a year ago on this property. She found this lot by driving around with a friend of hers. She loves T or C and when she pulled up the property and saw that it was owned by the city she reached out to Traci to see how she would go about buying the property. Traci gave her directions and they have been in touch back and forth for about a year so they are obviously in no hurry. The piece of property sits directly across from a large recreational area and has sat vacant for many years. It is not close to the river, and it would not be part of a walking trail. It is a vacant lot, and as we all know vacant lots in T or C tend to attract a lot of trash. They also own the property diagonally across from it on Clancy and Wyona. They just bought those two lots and had them cleared. Their goal is not to just be a hit or miss. They own properties in Elephant Butte where she is at 90% of the time. They love the area and the County, and they are very proud to be part of a development down here. They are not looking at doing high end Santa Fe style kind of things. They are looking at small homes and they are very locally driven. They use a local contractor, and they try to use all local supplies and suppliers. They want to be part of the community, and they intend to be here for a while.

Commissioner Aragon asked Ms. Depalma how many homes will fit on the property, and he also asked what will be the style of the homes.

Claudea Depalma responded there are 6 lots, and they are going to have it surveyed. They are looking at about five (5) homes each with 2 to 3 bedrooms. They hope to continue in that area once this process is complete. They are building two houses on Clancy and Wyona and they hope to build 4-5 houses on the city lot, and they are still looking for additional land and they will be craftsman style homes.

City Attorney Rubin stated that the closing price will be paid by the purchaser.

Mayor Whitehead closed the Public Hearing.

**Commissioner Forrister moved to approve final Adoption of Ordinance No. 709 amending the Code of Ordinances by adding a Section related to Sale of Real Property pursuant to §NMSA 1978 3-54-1. Commissioner Aragon seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**G. ORDINANCES/RESOLUTIONS/ZONING:**

**1. Discussion/Action: Resolution No. 13 20/21 in support of the ICIP for the Sierra Joint Office on Aging (SJOA):**

City Manager Madrid explained that the Resolution is in support of the ICIP that the Sierra Joint Office on Aging (SJOA) will submit to the state.

Sierra Joint Office on Aging (SJOA) Director, Crystal Walton explained that they provided the ICIP list that they are submitting for the upcoming funding season. The items on the ICIP are items that they had as of last year. They basically organized and cleaned up a few things on the list.

**Commissioner Aragon moved to approve Resolution No. 13 20/21 in support of the ICIP for the Sierra Joint Office on Aging (SJOA). Commissioner Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**H. UNFINISHED 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 explained that he doesn't have any recommended amendments to this Resolution. However, he will report since our last meeting, the Governor has relaxed some of the restrictions, and is now allowing in-person dining at restaurants at a 25% capacity. Places of worship can now conduct their services at a 40% capacity, and individual school districts are subject to opening with an approved plan with a green county, and with COVID safe procedures in place subject to the approval of the State Public Education Department. The state numbers continue to drop, and the 7 day rolling average continues to drop as well. We look forward to going back to normal in the near future. At this time there is no action required by the Commission.

No action was taken on this item.

**I. NEW BUSINESS:**

**1. Discussion/Action: Authorize City Manager to Negotiate and Enter into Final Contractual Agreement for Engineering Services for the Clean Water State Revolving Loan Project:**

City Manager Madrid explained that this is a project for which funding has already been accepted and approved by this Commission. We are in the procurement stage of getting services for the engineering design of the project. We did an RFP and requested that firms submit a response in writing. This process is confidential until negotiations are complete. However, he can say that we received responses from Wilson & Company,

Smith Engineering, and Bohannon Huston. He appointed a committee (which he was a part of) to evaluate the responses to the request for proposals in document form. It listed their qualifications, experience, ability to perform, and their familiarity with Truth or Consequences and previous projects. There was a rating process by the committee, and that process revealed that all three firms were very close, so the committee decided to conduct in person interviews with some standard questions in relation to the project, the ability to perform, their experience, and their plan of operations should they be awarded. After that process, the committee still did not have a clear firm above the other two, so having gone through those two processes he requested that the three firms submit their standard rate sheet for the different type of services they perform. One engineering firm may charge \$250 an hour, where another firm may charge \$180 an hour for the same type of service for administration, clerical, architectural design or actually printing the documents. Based on that, and based on his personal judgement, he is requesting permission to negotiate a final agreement with Wilson & Company.

**Commissioner Baca made a motion to authorize City Manager to Negotiate and Enter into Final Contractual Agreement for Engineering Services for the Clean Water State Revolving Loan Project. Commissioner Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**2. Discussion/Action: Consider the appointment of George Szigeti to the Public Utility Advisory Board:**

City Manager Madrid stated that is a recommendation from the Public Utility Advisory Board to replace a board member who resigned.

Commissioner Forrister asked if this position was advertised.

City Clerk Torres confirmed that the position was advertised.

**Commissioner Aragon made a motion to approve the appointment of George Szigeti to the Public Utility Advisory Board. Commissioner Forrister seconded the motion. Roll call was taken by the Clerk-Treasurer.**

Commissioner Aragon commented that Mr. Szigeti was a former Commissioner and a former Public Utility Advisory Board Chairman. He has a lot of knowledge, and his forte is dealing with utilities.

**Hon. Paul Baca, Commissioner voted nay  
Hon. Amanda Forrister, Commissioner voted aye  
Hon. Sandra Whitehead, Mayor voted nay  
Hon. Randall Aragon, Commissioner voted aye**

**Motion failed due to a 2 to 2 vote.**

**3. Discussion/Action: Consider the appointment of Ron Fenn and Chris Sisney to the Planning & Zoning Commission:**

City Manager Madrid stated that we received a resignation from the Chair of the Planning & Zoning Commission, so there is another vacancy on that Commission. This item was delayed before because we had some issues with a possible conflict of interest. We believe that one of those issues has been resolved, so it was okay to place this on the agenda. However, there may be another possible conflict of interest.

City Attorney Rubin stated that Mr. Fenn has filed a lawsuit against the city and the case of the lawsuit is pending. The gist of the lawsuit basically was when the City Commission approved the Smart Meter contract. Mr. Fenn and several other people signed a petition asking that an ordinance be enacted by the City Commission for a Moratorium, and the City Commission did not take any action which deemed the denial of the ordinance. Mr. Fenn then filed a lawsuit against us, and the case is pending. In fairness to Mr. Fenn he is not going to say that filing of a lawsuit is necessarily a conflict of interest because they are dealing with separate issues. The issues that would come up from him being a Planning & Zoning Commissioner is different than what is involved in the lawsuit, but nevertheless, there is always a question of public perception. Therefore, we felt we had to bring this to your attention.

City Manager Madrid explained that the Commission can also choose to wait on making a decision since we have to re-advertise again for the newly vacant position.

**Commissioner Aragon made a motion to consider the appointment of Chris Sisney to the Planning & Zoning Commission. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.**

**4. Discussion/Action: Possible appointment of a qualified elector to fill the vacancy for the City Commissioner Position IV:**

Mayor Whitehead stated that she was really surprised and saddened when they received Brendan Tolley's resignation. It was with great sadness that they received the resignation letter and accepted it, but at this time she feels that they as a Commission must move forward and choose someone to serve in the position. She thinks that it is easier, and better to do it sooner than later. As you just saw here we had a split vote 2 to 2, so this would possibly continue through the rest of their term. She knows there have been a lot of questions, and she received the letter of interest from Merry Jo Fahl. She also received a text from Frances Luna who also showed interest. She then read a letter submitted by City Manager Madrid. (Complete copy attached hereto and made a part hereof).

**Mayor Whitehead recommended the appointment of Rolf Hechler to fill the vacancy for the City Commissioner Position IV.**

## CITY COMMISSION SEPTEMBER 9, 2020 REGULAR MEETING MINUTES

Commissioner Forrister stated that she agrees that they need to do this sooner than later, but she personally does not think that they need to jump the gun. They really need to see who is interested in serving, and then they can come back as a group to figure out who they want.

Commissioner Aragon concurs with Commissioner Forrister. Obviously Rolf Hechler is a distinguished and proficient executive, so this is not to knock him at all. He spoke with City Manager Madrid as soon as he heard about this happening, and the results were the commentary he mentioned which is really good. Unquestionably, the best method would be to have the people elect our Commissioner. He put together a methodical way of selecting a new Commissioner. Step #1 would be the initial discussion. Step #2 would be for them to agree that the candidates would need go to the City Clerk's Office and turn in their resume. The 3<sup>rd</sup> step would be for them to have a Special Commission Meeting after working hours, and have the applicants answer questions in front of the public. The ones not being interviewed would stay at the Civic Center so they can't hear questions. On the completion of the interviews, the Mayor will add up the scores, and the highest scorer will receive a nomination. If there is a tie, they will draw cards. That way, those who do not get the position know that it was done in an orderly process.

Mayor Whitehead disagreed because they were elected to serve and take care of our community. She knows that they all have constituents, and they may not be liked by everybody, but they are here to do their job. They are not here to let the public do their job. Why are they sitting up here when all we want to do is let the public decide? The public decides in an election, and today they have a vacant seat. They are not applying for a job so they shouldn't have to come to us and sit over here while we question them, because we don't know anything about them, or how they would be up here. They may be better than the four of us. We were elected to do a job, and today she moves to appoint Rolf Hechler to the replacement seat left vacated by Brendan Tolley. Commission Hechler would serve for a year and four months. He was a Commissioner for the last four years and she thinks he would do a great job, and he would hit the ground running. In a year and four months in November of 2021 we can then let the voters decide who they want. If Rolf Hechler decides that he wants to run for the position, then he can, but at least we will have a full Commission. How long are we going to put this off and wait? They've done this with the boards, and they are still doing it with the boards. We advertise, and we request for people to apply, but nobody wants to apply. Again, if you want to run for a public office such as a City Commissioner then you go down to the City Clerk's Office and declare your candidacy and run for that office, but if that position becomes vacant, then we have to make a decision and decide who we are going to put in this position. All of the Commissioners hear from different people, and we are never going to make everyone happy.

Commissioner Forrister agreed that the public elected them to do their job, and it weighs heavy on them a lot of the time because they try and make all the right decisions. However, with all these boards that they appoint, they ask if that position was advertised. She has never worked with Rolf, and she doesn't even know if Rolf is



interested in the position. She knows that Merry Jo and Frances voiced their interest, so she doesn't feel comfortable electing Rolf right now because she doesn't even know if he is interested because he didn't submit anything.

Commissioner Aragon clarified that Mr. Hechler expressed to him that he was interested, but he never received anything in writing.

Mayor Whitehead stated that they don't need it in writing. The only one she received a letter from was Merry Jo Fahl. She received a text message from Frances Luna saying she was interested. She talked to Rolf, and City Manager Madrid did as well, and he said that he would be interested.

Commissioner Forrister stated that she does not feel comfortable choosing someone right off the spot today. She asked that anyone interested submit a letter in writing to City Manager Madrid so then they can at least read the letters to know who is interested.

**Mayor Whitehead's motion failed for a lack of a second.**

**Commissioner Aragon made a motion to table this item until the next meeting. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer.**

**Hon. Amanda Forrister, Commissioner voted aye.**

**Hon. Sandra Whitehead, Mayor voted nay.**

**Hon. Paul Baca, Commissioner voted aye.**

**Hon. Randall Aragon, Commissioner voted aye.**

**Motion carried with a 3 to 1 vote.**

## **J. REPORTS:**

**City Manager Madrid reported the following:**

- City Manager Madrid reported the CARES funding that was granted by the state came in two parts. The first part is assistance to local governments due to the COVID event. When they declared the health emergency, this Commission allowed the emergency appropriation of about \$200,000 in the event that it was required for the health emergency. We spent less than \$2,000 on the emergency. It was mainly for masks, gloves, and dividers that we installed in certain buildings. The city government has not had an impact from this. We have done work from home, continued services, and we've modified some procedures on how we deal with the public. We also not cutting off anyone's utilities. The only issue we may have in the future is revenue replacement. That is not an allowable claim cost under any of the CARES funding that is now in place. It may be part of the CARES funding that is coming up, but we did not submit an application for



the funding because we didn't need it. This event has not had an impact on our governmental operations. In our economy we have an older population, and a majority of people are on a fixed income which makes our economy very inelastic meaning that it doesn't fluctuate much. Our gross receipts tax actually had a small spike in it when people started hoarding. We also were helped by all of the individual assistance that was provided by the CARES Act to individuals. The gross receipts have been growing based on active projects that we have. Mainly, in the hospital. That has tapered off, so our gross receipts may go from climbing to flat. It will start growing again when our city projects start going again, and that will be a major boost within the next 18 months.

- In regards to the assistance to our small businesses, he had a discussion with Bruce Swingle from the County, and the State allows you to apply once per entity. We could apply on our own, or we could let the County include us in their application, so that's what we did. Any funding that could go to our local businesses would be eligible through the County. We are grateful that the County included us because the deadline for both of these funding's were around the same time as we had our flood disaster, and we were able to focus that instead.
- He and the Mayor were invited to meet with Congress Woman Xochitl Torres Small and her staff, as well as the State Emergency Management Group. He provided the Commission with the document that was presented to Congress Women Torres-Small. In the event that this may qualify for a Federal Disaster there is a little over 2 million dollars in claim costs, and we may be eligible to receive 75%.

#### **City Commission Reports:**

##### **Commissioner Forrister reported the following:**

- She's excited to see who is interested in working with them.

##### **Commissioner Aragon reported the following:**

- He commended City Manager Madrid on updating them on the CARES Act.
- He asked where we were with the meeting time survey.

City Manager Madrid responded that we should have the final tally by the next meeting.

##### **Mayor Whitehead reported the following:**

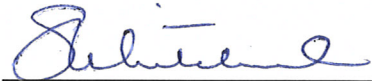
- She thanked Merry Jo Fahl for her letter. She also thanked Frances Luna for her text message, and she thanked Rolf Hechler for his interest as well. She again asked that those interested in serving in the vacant position please submit their letters of interest to the City Clerk so we will have time to review them by our next meeting.

#### **M. ADJOURNMENT:**

**Commissioner Forrister moved to adjourn at 10:18 a.m. Commissioner Baca and Mayor Whitehead seconded the motion. Motion carried unanimously.**

CITY COMMISSION SEPTEMBER 9, 2020 REGULAR MEETING MINUTES

**Passed and Approved** this 23rd day of September, 2020.



Sandra Whitehead, Mayor



Angela A. Torres, CMC, City Clerk