

CITY COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
Tuesday, September 23, 2008

REGULAR MEETING

Minutes

TIME & PLACE: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Tuesday, September 23, 2008 at 6:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Montgomery who presided and Mary B. Penner, City Clerk, acted as Secretary of the meeting.

ATTENDANCE: Upon calling the roll the following Commissioners were reported present:

Hon. Lori S. Montgomery, Mayor
Hon. Jerry Stagner, Mayor Pro-tem
Hon. Steve Green, Commissioner
Hon. Freddie Torres, Commissioner
Hon. Evelyn B. Renfro, Commissioner

Absent:

Also present:

Jaime R. Aguilera, City Manager
Jay Rubin, City Attorney
Mary B. Penner, City Clerk

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

CEREMONY: Mayor Montgomery called for fifteen seconds of Silent Meditation.

Mayor Montgomery called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Montgomery called for approval of the Agenda. There are two corrections. The date should be 2008. Under I-3 Resolution #12-08/09.

“Commissioner Stagner moved to approve the agenda with the corrections.”

Seconded by Commissioner Green.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT:
Gerald Trumbull

Mr. Rubin responded to a question from Mr. Trumbull whether there was a concern on our part of Commissioner Stagner participating in voting in the Hot Springs Land Development issues including the ordinance, the zoning, master plan, etc., and also participating in the special meeting we had on August 18th. I want to assure everybody this was looked at very carefully from two different perspectives. The attorney for the New Mexico Municipal League, Randy Van Vleck, met with Mr. Stagner to discuss this issue. I understand that Mr. Van Vleck advised Mr. Stagner that if he gave a full disclosure of his involvement or contact with Hot Springs Land Development prior to

the special meeting and announced it on the record that he felt he could participate in good faith and render a fair decision that was legally acceptable. Also, I got a legal opinion from the Hot Springs Land Development attorney. They were fully aware that by having Mr. Stagner participate that could create some legal challenge which could have created a delay in the proceedings and they felt it was appropriate for Mr. Stagner to appear also. So we had two different legal opinions that it is okay for Mr. Stagner to participate.

Mr. Stagner reiterated what both the attorneys said and this has been disclosed to my employer and to the Commission and the Sierra County Land Development. It was all out in the open.

COMMENTS
FROM THE
PUBLIC:

Gina Kelly, Tourism Board, thanked everyone for their support during the BBC event last week. Some of the quotes we got from the BBC crew were: This was the best live hour of radio we've ever had. They felt the people of T or C were the nicest they have met on this trip. One of the things they really admired about our community is there is such huge community involvement. I've tried to calculate the dollar amount of an hour broadcast; you really can't because no one sells an hour broadcast internationally. But, it's at least in the tens of thousands of dollars plus the interest in the T or C segments on the BBC website which still continues to have traffic. Our tourism board website visits doubled last week and one of the local hoteliers told me the visits to his website more than tripled. So, the interest is there, everybody loved us and I just want to thank everybody again for their support. It was a great event and the website to view the clips is: bbbworldservice.com and look at Talking America.

Kim Audette: Spoke about free tax help in Sierra County, the Healing Waters Trail Youth Art Contest and the Healing Waters Trail itself.

Bob Rusch: Quoted Senator Robert C. Bird, Democrat, West Virginia, on the Constitution. Addressed Commissioner Stagner regarding HSLD deposits in the bank you were affiliated with. Did they receive interest? How, Mr. Stagner, can you contend that you have not been influenced by what appears to be bribes?

John Wheeler: Spoke about the huge role seniors play in the community: biggest single block of taxpayers and residents, own property, are paying significant property taxes, paying significant gross receipts taxes. Spoke in favor of the Commission and City Manager for the job they are doing.

Sophia Peron: Spoke about the mailing address on the incorporation papers of Hot Springs Motorplex, LLC, Greg Neal registered agent, is 210 Main Street, Truth or Consequences, the same as Compass Bank. Spoke about the mailing address on record with New Mexico Public Regulations Commission for Hot Springs Land Development, LLC, Greg Neal, CEO, is 210 Main Street, Truth or Consequences, the same as Compass Bank formerly State National Bank. Ms. Person then played a portion of the Planning and Zoning meeting of July 14, 2008.

Dr. Terry Squire: Spoke about his background in education, business, industry and economic development projects. Offered his services in training or helping bring other companies into the area; helping to get economic development.

Ronald Fenn: Spoke about collecting petition signatures on Ordinance #586 and #588. Spoke in favor of responsible growth for the community that uses non-polluting energy sources.

Janice Gray: Spoke in support of the Hot Springs Motorplex project, efforts to work with the residents of the Cuchillo basin over water issues, need to embrace this opportunity to help keep our businesses alive by welcoming controlled progress.

Jack Barrett: Commended the Commission for their courage in inviting a project here that provides opportunity for our young people.

Mike Slatter: Motorplex is going to offer opportunity to a lot of the youth and families.

Arial Dougherty: Spoke about the Federal Aviation Administration letter of November 16, 2007, that rejected the airport agreement making it null and void. Ms. Dougherty asked about a signed letter of intent for exclusive operation and development April 16, 2007; does Mr. Neal have this agreement with the City or not.

Linda Bean: Thanked the Commission for their hard work; supports the Motorplex and a new hospital

Gerald Trumbull: Urged the Commission to consider establishing a citizen oversight and review committee consisting of three, five or seven members from a cross section of the community and a representative of the City. This group would have limited powers to be negotiated.

Deborah Toomey: Spoke about the lack of enforcement of City building codes.

Leroy Henderson: Spoke in favor is Mrs. Dominica Rush as temporary CEO for Sierra Vista Hospital.

Susan LaFont: Hopeful the petitions that were recently submitted to the City Clerk's Office will be very thoroughly investigated; that proper procedures were followed in the taking of these petitions against the Hot Springs Land Development.

CONSENT
CALENDAR:

Mayor Montgomery stated there are two items on the Consent Calendar: City Commission Meeting Action Minutes from September 9, 2008 and Actuals for City Manager to attend a Safety Meeting in Albuquerque on October 15, 2008.

"Commissioner Stagner moved to approve the Consent Calendar."

Seconded by Commissioner Green.
Motion carried unanimously.

DRAFT
MINUTES:

Mayor Montgomery stated the following draft minutes are a non-action item: T or C Art Advisory Board minutes from September 2, 2008 and September 16, 2008; Recreation Advisory Board minutes from August 5, 2008; Planning & Zoning Commission minutes from September 2, 2008 and August 11, 2008; and the Public Utility Advisory Board minutes from August 18, 2008 and September 15, 2008.

BOARD &
COMMITTEE
REPORTS:

None.

PUBLIC
HEARINGS:

Mayor Montgomery stated the first item is the continuation of the public hearing for Ordinance #589 - NMFA loan for park improvements, recreation and swimming pool.

Mr. Aguilera stated this item is a continued effort to gain public input as to how the City should spend future monies having to do with a dedicated amount of money that has to be spent on recreational activities and/or other civic activities. Recently the Recreation Advisory Board held a public meeting and I believe Dr. Greg D'Amour might give us a briefing on that public hearing.

Dr. D'Amour stated on September 16th we met at the Youth Center. We had superb attendance from the community. We had public input on swimming pool, tennis courts, recreational complex and future planning. We listened to the issues and made notes. We will be having future workshops to go over these ideas and put together a recommendation, or plan, to present to the City Manager and this Commission based on this input.

Mayor Montgomery asked if Dr. D'Amour would give a synopsis tonight or wait to give a report at a later date.

Dr. D'Amour stated there was a vast majority of people who made reference to the swimming pool and getting it covered immediately. There was a definite statement of the need and benefits of the tennis courts. There were a few members of the public who voiced hopes of a future recreation complex. There were a large number of people who said that was good for the future and to begin planning but right now we need the current recreation sites in the community brought up to proper standards and cover the swimming pool. There was definitely input for planning for a recreation site. There were a few comments about the senior center and making sure it was kept up and maintained; youth recreation center kept up and brought up to date.

Mr. Aguilera gave a synopsis of prior meetings: Cover the pool, have a pool at the high school, maintain existing facilities, improve the ball fields and parking, buy the bowling alley.

Mayor Montgomery opened the public hearing for ordinance #589 extending the loan NMFA and get additional money up to and not exceeding \$3,000,000 dollars. I think the current loan is approximately \$1,200,000 dollars which would be the difference we would have to expend on recreational facilities. I will open the hearing and listen to individuals who are opposed to the ordinance. (None) I will open the hearing for those individuals who are for Ordinance #589.

Chris Pappas: Gave a brief history of the tennis courts in the City. City should allocate funds for rebuilding the two old courts and resurfacing the new courts to keep them from deteriorating. Spoke in favor of a walking track/playground/family area around the tennis courts. Spoke about the need for tennis activity in the City; tournaments, charity events, lessons for high school. Proposed that part of the \$1,800,000 dollars that the City has allocated for recreation go towards making the Gene Speer Tennis Complex a facility that we can be proud of and visitors can enjoy. Proposed that the City make sure there are enough employees to maintain the recreational facilities and keep them in proper working order. Submitted a copy of quote received from Southwest Sports Surfaces Inc. for your review; they intend on submitting their bid when and if you decide to re-do the tennis complex.

Jean Groce Bullard: Spoke in favor of covering the pool for year round use.

Marcella K.: Spoke about lack of activities for youth; spoke in favor of

cover for the swimming pool and fixing the tennis courts.

Barbara Dreyfus: Arthritis Foundation well known for helping people with classes and sometimes even helping with money to build pools. This is a senior area and tourist area.

Ruth Lee: Spoke in favor of covering the swimming pool for year round use.

Rose Burrows: Spoke about a temporary dome cover for this winter and permanent cover next year. Temporary dome cover then used on the tennis courts in the winter. Use the money we have to dome the swimming pool, take out the loan, fix the tennis courts and possibly start on your recreation building all at once.

Commissioner Green, speaking for four young boys who ride their bicycles everywhere, spoke in favor of a BMX track, a bike motocross track similar to the one in Los Lunas. Will give Manager Aguilera the staff member who is in charge of Parks and Recreation in Los Lunas. They should be able to give us cost information and engineering specs. The eight to fourteen age groups want to go swimming, they probably would like to play tennis if someone would teach them how but they're on bicycles all the time. That's how they get around.

Kim Audette: Advised the Center for Disease Control says that exercise prevents cancer; sun exposure causes cancer, skin cancers, and recommended covering the pool so we can exercise year round without getting skin cancer.

Lois Sailley: Spoke about the racetrack across the freeway which, at one point, had a BMX track in the middle of it. Suggested the City might look at that for your BMX track.

Charles Lucero: Spoke on behalf of teaching tennis to kids and adults in the community. He is a certified tennis professional instructor in this community and would like to pursue more options with tennis. Set up clinics to involve elementary and junior high levels. Member of the Board of Directors of the Southwest Section Tennis Association and has a lot of support including the Sierra Racket Club. Would like to see more tournaments held here on a regular basis.

Mayor Montgomery closed the public hearing on Ordinance # 589.

Mayor Montgomery stated the next item is the continuance of public hearing on Resolution #11-08/09 for the Infrastructure Capital Improvements Plan (ICIP) 2010-2014.

Mr. Aguilera stated the ICIP was advertised again in the local newspapers. The list was fully published as was requested. I recommend we open the item for public hearing.

Mayor Montgomery stated the public hearing is now open for those who would like to speak against the Resolution. (None) Anyone who would like to speak for the Resolution.

Helen Patterson: I am here on behalf of the Truth or Consequences Community theater. We've produced fifty-five plays since we organized in 1991. Our activities have included participating in fiestas, parades, county fairs. Our venues have included open mic nights, reader's theater, guest performers, mystery dinners, plays for clubs and organizations, plays for and with children. The group has participated in community workshops. We are a 501C3 organization that is strictly

volunteer. All proceeds for our events go into the next production and payments and upkeep of our property. I'm here tonight to ask for your help building a true performing arts theater. We have the first drawing of a proposed building. The cost of this building with sound equipment, lighting, stage, curtains, seating, kitchen appliances, etc. is at this time unknown. We believe that there is a great need for this type of facility in our town and I thank you for your time.

Arial Dougherty: Spoke about exploring the possibility of restoring the recreation center building to its original structure. Tie this into the projection of a new hall/municipal court and request for the year 2010. Enclosure of the swimming pool is urgently needed however the sports complex is unnecessary at this time. It is better to maintain the different parks and sports areas as they have evolved in different sections of the City. Recommendation to reduce the total there to cover the pool and small physical improvements in the different parks in meeting other community needs. Questioned the Hot Springs Waterfall and the \$500,000 dollars sought in fiscal year 2011; not the most efficient use of economic development funds.

Kim Audette: Addition to the community development block grant list. Permeable pavers of the alley ways in the historic district. They catch water and help reduce flooding. Paving would also expand the access for pedestrians to the businesses along the business loop. The businesses would then have a good reason to spiff up the alley sides of their businesses. More nice 24/7 public restrooms in the downtown area. Less parking in the downtown area with signs to guide buses to parking would really help our tourism.

Mayor Montgomery closed the public hearing.

OTHER
BUSINESS:
Adoption
Resolution #11-
08/09 ICIP 2010-
2014

Mayor Montgomery opened discussion from the Commission on the ICIP 2010-2014.

Commissioner Green stated the Theater, SNM - Southern New Mexico Art and Cultural Center, is on the list starting 2011 for \$1,300,000 dollars. Suggested that number 4 should not be on the ICIP because that will be covered in the \$3,000,000 dollar loan. Morgan Street project is GRIP 2 money; we might want to cut down Morgan Street and Riverside Drive a little. We have lighting for a Meal/Recreation Complex then a Meal/Park/Athletic Field Lighting twice at different years. Imperative that we work with SJOA to try to maximize their capability of getting grant money that can be matched with some City appropriation. Suggested that we take their project which starts in 2012, Meal Site Expansion, and replace where the Enclosed Swimming Pool Development is. Went to the recreation meeting and only two people talked about a sports complex. Everyone else was incredibly invested in the tennis courts and unbelievably invested in roofing the swimming pool and getting that covered.

Mayor Montgomery asked Ms. Lester if SJOA was successful in applying for a planning grant to build a new recreation complex.

Ms. Lester stated she does not know yet.

Commissioner Renfro asked if it would help if we listed it.

Mayor Montgomery stated this is expansion. You're talking about building a completely new building on a completely different piece of land. Is that correct?

Ms. Lester replied yes.

Mayor Montgomery voices concern about putting a remodel of this building on and possibly jeopardizing the ability to get a new building built.

Commission Renfro suggested instead of listing the expansion maybe we could list what Ms. Lester has proposed and that would show we are supporting it and it would be on our ICIP.

Mayor Montgomery stated that would be fine. I don't know if the documents have the actual amount of the new buildings because it was just a planning request. We could estimate what that would be and you could put in a figure there. My fear is throwing good money into an old building that we may be vacating in two to three to five years.

Commissioner Green agreed with Commissioner Renfro. I think it makes whatever they do that much more potent as an applicant because it shows support from the community.

Mr. Aguilera stated there is no more money in the GRIP 2 for Riverside and Morgan Street.

Mayor Montgomery did not want to see the paving at number 8.

Commissioner Renfro agreed.

Mayor Montgomery suggested moving the swimming pool/complex to a later date and focus on the loan money. We could move it to 2010-4 to a subsequent year, one or two years down the road.

Commissioner Renfro agreed.

Mayor Montgomery suggested moving the senior complex up to the top five.

Mr. Aguilera stated normally the State Legislature only looks at the top three for funding. However, as long as it is on this list they may provide funding for the project. If it's past the top three it could still be funded and we can still spend City money on it.

Commissioner Green, referring to number 2, asked if we are applying for a grant to build a new wastewater treatment plant. Why are we putting money into a plant we will be vacating?

Mr. Aguilera stated the request is \$1,000,000 dollars for the new plant. That would be added to whatever money we could get elsewhere, probably as a match. The Wastewater Line Replacements, most of those will be in the downtown area. Before we talk about paving and doing improvements in the downtown area we probably should do those underground improvements.

Commissioner Green asked if number 5, Water Well North, is that the Cuchillo well? Should that be on our list if we've already done it?

Mr. Aguilera replied we are asking for grant money for further development of that well. We will be using the developer's money, upon their payment of fees, but it will probably take more than that. Another thing to consider is the Landfill. We have been told that the Landfill must be closed within the next three years. So, the new money for the Landfill needs to be identified and it probably has to move up.

Commissioner Stagner suggested dropping the half million on the hot

water falls. We can do something else with that land if there is other need for that infrastructure. We were going to donate that to the City but we can do something else with it.

Mayor Montgomery asked where the closure of the landfill is.

Mr. Aguilera stated the landfill closure is a new issue. I was told last week we have to close.

Commissioner Stagner asked if we have an estimate on the cost.

Mr. Aguilera stated around two million dollars.

Mayor Montgomery recommended number 8 become number 4, which is paving; the senior complex should be in the top five. So, the landfill closure can be number 1, number 2 senior complex, number 3 new hospital, roads number 4, wastewater number 5, and 2010-03 number 6, and 2011-04 can be left on the list.

Commissioner Torres moved to adopt Resolution #1-08/09 ICIP 2010-2014 with the changes as discussed."

Seconded by commissioner Renfro.
Motion carried unanimously.

Mayor Montgomery stated there has been a request to moved SJOA up on the agenda. We will move #4, #8 and #9 up on the agenda.

Mr. Aguilera also recommended we move #12 up on the agenda also.

SJOA Assistance
by the City

Mr. Aguilera referred to a letter from Patty Lester requesting a meeting with the Commission pertaining to what the City is doing for the senior citizens. The amount for maintenance of the buildings should be \$41,000 dollars, so the total changes to \$113,000 dollars in assistance we provide either in dollars or in-kind services for the senior citizens. Met this morning with Ms. Lester and there is another issue unsolved: The 4th Street Lab is a problem because of incompatible users and odd hours of use among others. Ms. Lester suggested switching the 4th Street Lab with the thrift store and woodworker area. We will have to spend some money to re-do the electrical in that area but I think that is a minor issue.

Mayor Montgomery asked Ms. Lester if there is something else we need to be addressing besides the computer lab.

Ms. Lester stated that solves one on-going problem. Some moral support from the Commission would be really appreciated. If I could see one of your faces at the senior center for lunch that would be wonderful.

Commissioner Torres indicated he would do that.

Bob Hupp stated it may require some additional work on the part of the computer lab to prevent them from interfering with the other two networks in this area.

Consider
Agreement -
City of T or C and
SJOA

Mr. Aguilera stated the agreement with the State of New Mexico requires we take on certain responsibilities for the money and maintenance of the vans. The agreement with the City and SJOA states that they will take on those responsibilities for the City. It might be appropriate to ask SJOA if they are willing to enter into that agreement before we enter into the State of New Mexico agreement. Patty Lester

has indicated SJOA will take on this responsibility.

Mayor Montgomery reiterated with Patty Lester they are willing to take on this responsibility.

Patty Lester indicated they are willing to insure and maintain the vans.

“Commissioner Renfro moved to approve the agreement between the City of Truth or Consequences and SJOA.”

Seconded by Commissioner Stagner.
Motion carried unanimously.

Consider
Agreement –
State of NM and
City of T or C

Mr. Aguilera stated this is a grant that SJOA applied for in our name because we are the fiscal agent. It is a grant for \$50,000 dollars for the purchase of vehicles. I believe we can get two large vans for that amount and will be coordinating the purchase of the vehicles through the City and once they arrive SJOA will take them over.

“Commissioner Stagner moved to approve the agreement between the State of New Mexico and the City for a grant to purchase vehicles for SJOA.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

Commissioner Green brought up #3-2 under “Consideration” it says “Services to senior citizens and persons with disability in City of Truth or Consequences.” Does that mean you can’t go to Williamsburg?

Patty Lester replied no. The van goes all over the County.

Commissioner Green stated that statement should be expanded.

Mr. Rubin stated the problem is the State drafted this agreement. I don’t know that we have the authority to change it.

Mayor Montgomery stated since the State drafted this agreement we need to stay with their wording.

Oral Report on the
Municipal Court
Building

Mr. Aguilera had a discussion with Judge Hawkins about the possibility of a Cavco building. The building is 2,600 square feet and will allow growth for the court. The estimate from Cavco is \$150,450 dollars plus \$10,700 dollars delivery totaling \$161,000 dollars. The City will have to do the set-up. I estimate just under \$200,000 dollars total. We would go back to NMFA for a loan to purchase the building.

Judge Hawkins stated their current building is getting worse; dangerous.

Mr. Aguilera stated we are buying air purifiers for the court until we can get them another location and Ed Williams, Safety, has been monitoring the air quality in the court building.

Mayor Montgomery asked what the turnaround time is for getting the Cavco building.

Mr. Aguilera stated about sixty days to delivery.

Commissioner Renfro stated the cost estimate is about the same as remodeling the old fire station.

“Commissioner Stagner moved to instruct staff to pursue the loan through NMFA to purchase the Cavco building.”

Seconded by Commissioner Green.
Motion carried unanimously.

Oral Report from Ms. Helen Belis stated the pledge securities are all securities from Finance Officer re: Compass Bank with the Federal Home Loan Bank in Atlanta; these are Investments not with Fannie Mae or Freddie Mac. The second bank, 1st Savings Bank, work with Fannie Mae. There is an Ordinance on the books from 1962 that we can only bank at two banks.

Commissioner Renfro stated that ordinance should be amended to expand to other banks in the area.

Mayor Montgomery stated the ordinance should be presented at the next meeting.

Commissioner Green asked what financial instruments the bank in Atlanta has to guarantee anything over the FDIC insured amount.

Mr. Aguilera and Ms. Belis both reiterated that only \$100,000 dollars is insured through any bank. First Savings Bank advised us if we want additional security we would have to purchase it and our rates would drop.

Commissioner Stagner stated typically there are either treasury bills or federal home bank notes issued, something that is insured by the federal government. Fannie Mae and Freddie Mac are not. The Federal Home Loan notes are pledged back to our note. One of the things you have to look at in the pledging instruments they send back is look at the description and make sure they are not Fannie Mae or Freddie Mac.

Ms. Belis stated it is a letter of security from Federal Home Loan Bank.

Commissioner Torres asked about the rate of interest.

Ms. Belis stated 3.15 annual percentage rate. What we have at Bank of the Southwest is \$1,200,000 dollars at ½ percent. So we will move that to the one year CD at 3.15 percent annual and also the \$207,000 dollars we have at Compass Bank.

Commissioner Renfro suggested this kind of report can be in memo form in the future.

Resolution
#12-08/09
Budget
Adjustment

Ms. Belis stated that is for the \$47,500 dollars approved for the hospital. The resolution was needed because of the increase in the expenditure budget.

“Commissioner Stagner moved to approve Resolution #12-08/09 Budget Adjustment.”

Seconded by Commissioner Stagner.
Motion carried unanimously.

Commissioner Renfro asked about the gross receipts; are they increasing, holding steady.

Ms. Belis stated August was down about \$73,000 dollars and September was down about \$19,000 dollars. It will probably be November before we see the GRT from Wal-Mart.

Oral Report on Meeting with FAA

Mr. Aguilera met with Tom Baca, New Mexico Department of Transportation Aviation Division Director; Lacey Spriggs, Regional Director of the Louisiana/New Mexico Airport Development Office; Mike Saup, Louisiana/New Mexico Airport Development Office; and Hot Springs Motorplex. We talked about the rejected agreement and they are in support of a longer term agreement of fifty years but we are still going to use the 20, 20 and 10 year terms which Greg Neal agreed with. The FAA representatives would like to see a similar agreement with the property leased at the current value; a regular land lease at a square foot amount for so many years. They want a cookie-cutter lease with nothing out of the ordinary.

Mr. Aguilera stated at this same meeting Tom Baca gave the Airport Manager an Award for Most Improved Airport in New Mexico.

Resolution #14-08/09 GRIP-2

Mr. Aguilera stated there is no more funding for GRIP-2. The last funding cycle was a year ago.

Oral Report on the Landfill Closure

Mr. Aguilera met with Jan Porter Carrejo, Gordon Environmental, and the Bureau Chief of the Solid Waste Bureau. We were told that all the un-permitted landfills in New Mexico will be closed within one year. The Bureau Chief is willing to give the City two to three years to close the landfill if we continue to make progress, and continue to work with the County. Eighty percent of the landfill is capped already. We will have to spend the money to close the landfill which will be about \$300,000 to \$400,000 dollars, maybe put in monitoring wells and do methane extraction. The Bureau Chief said we could probably continue to operate the landfill as a building materials landfill: concrete, asphalt etc., and use the existing landfill as a transfer station so our trash would be picked up and driven to Las Cruces. The joint authority in Las Cruces is willing to accept our waste from the time we close the existing landfill and build a new landfill. It takes about three years to get a permit for a new landfill and about \$2,000,000 dollars to build the new landfill.

Mayor Montgomery asked if the Bureau Chief is willing to put this in writing on the two to three years.

Mr. Aguilera indicated there will be a letter probably for two years and they will be willing to work with us after the deadline.

Mr. Aguilera stated the lifespan of the new landfill would probably be twenty years. Regarding the crosswind runway, it runs into the County landfill and that is a problem because of the birds. If we switch the City landfill to construction waste there will be no birds to pose problems to aircraft.

Termination of Airport Development Agreement

Mr. Aguilera stated the airport agreement is null and void because FAA did not give their approval. Recommendation is for approval of the agreement that nullifies the original agreement.

Mr. Rubin stated the date of the agreement is August 17, 2007.

“Commissioner Stagner moved for the termination of the airport agreement.”

Seconded by Commissioner Torres.
Motion carried unanimously.

Water Well
Development
Agreement

Mr. Aguilera stated we entered into an agreement June 10, 2007 with Hot Springs Land Development at a cost not to exceed \$100,000 dollars. We recently brought an agreement with the cost at \$32,000 dollars which the Commission approved subject to wording change from future tense to past tense. The Commission needs to nullify the old agreement and the recommendation is for approval of the new agreement which nullifies the old agreement.

Mr. Rubin stated the new agreement terminated the June 10 agreement and refers to the August agreement in the whereas section.

“Commissioner Torres moved for approval of the new water well development agreement.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

Commissioner Stagner asked about the well casings.

Mr. Aguilera stated we have a bill of sale from the developer handing over all of their equipment that was left in the ground.

Resolution
#13-08/09
Establishing
CDBG Program
Citizen
Participation

Mr. Aguilera stated this is an annual recurring resolution required by CDBG for citizen participation.

Jay Armijo stated citizen participation is required under CDBG funding to encourage citizens to participate in this process; to have access to records as it relates to this funding from HUD; access to meetings, etc. This is the grant the City just received for electrical improvements and Tony MacRobert our grant administrator will keep you informed on the progress.

Mr. Aguilera stated we have already had the public hearings for this grant.

Jay Armijo stated there will be a couple of public hearing during the project phase and we will advertise that to the public and give the public a chance to participate, learn about the project, to hear the status of the project.

“Commissioner Green moved to adopt Resolution #13-08/09.”

Seconded by Commissioner Renfro.
Motion carried unanimously.

Consider Pole Use
with T or C
Schools

Mr. Aguilera stated there was an existing agreement with the Municipal Schools for them to use our poles to hang their fiber optic cable. That agreement lapsed. The new agreement states we are charging the school \$5 dollars per pole and then forgive that fee for the use of two lines within their fiber optic cable system. I recommend we change the term to ten years and approve the agreement.

“Commissioner Stagner moved to approve the Pole Use Agreement with T or C Schools.”

Seconded by Commissioners Torres and Green.
Motion carried unanimously.

Discussion of
Building Codes

Mr. Aguilera stated a city ordinance from 1962 requires the City to inspect every commercial, public and industrial building twice a year. In the past we have relied on the Fire Marshall to do yearly inspections. Our City Inspector is not allowed by State law to do inspections on

public buildings. We can require an inspection of a building when it is occupied by a new business. I recommend we change the ordinance and take out "public buildings" because they are not within our jurisdiction and take out the "by-yearly inspections" and put in "prior to the issuance of a business license the building is inspected and brought up to code."

Commissioner Renfro reiterated that prior to issuing a business license the City Clerk would refer the occupant to the building inspector to inspect the building.

Commissioner Green asked how we protect the renters and the look of our City when buildings have an occupant or are vacant for a long period of time. How do we preserve the look of our city?

Mr. Aguilera stated the issue of appearance is not something the building inspector would cite. Most buildings turn over tenants fairly frequently and tenants can request an inspection.

Mayor Montgomery stated we should not look at one particular ordinance or building code issue. There are many ordinances on the books written in 1962 when the town was completely different. There needs to be a strategic look at every one of those and not cherry pick this particular item because someone has made an issue about it. This needs to be addressed, but there are other avenues to look at that. You made a comment about buildings being in disrepair or the look of our city. That's up to us to write how we want that to be taken care of. But first we need to have an orderly review process of every ordinance on a monthly basis.

Commissioner Torres stated he is in a building that was built in 1947, then extended in 1964. I take care of my building.

Mayor Montgomery wondered if the State does yearly inspections on regular businesses.

Commissioner Torres stated the Fire Marshall does yearly inspections.

Mr. Aguilera stated there should be a review of the old ordinances but in this case we have a law that is unenforceable or hard to enforce because of the manpower and because it doesn't make sense to inspect every building within the city.

Commissioner Stagner stated there needs to be some kind of public input from the building owners when we are going through this process.

Mayor Montgomery asked that this issue be brought before the Commission again.

OLD BUSINESS

None

REPORTS:

City Manager: We have received the lease for the National Guard Armory.

City Attorney: None

Commissioner Stagner: None

Commissioner Green: Bountiful Alliance holding a recycling center this Saturday, September 27th from 10:00 am to 2:00 pm at Sierra Title. Complimented Gina Kelly and Mayor Montgomery with regards to the

BBC program.

Commissioner Torres: None

Commissioner Renfro: We had a special meeting to approve \$100,000 dollars for the hospital. Do they not need that money now?

Mr. Aguilera stated the total amount was less so they didn't need out \$100,000 dollars to match.

Mayor Montgomery: None

EXECUTIVE
SESSION:

Mr. Rubin requested closed session to discuss personnel under 10-15-1H(2) City Manager Contract and Pending or Threatened Litigation 10-15-1H(7) Deborah Toomey and Appeal filed by Kim Audette et al in District Court.

"Commissioner Green moved that the meeting be closed for Executive Session – Personnel 10-15-1H(2) and Pending or threatened Litigation 10-15-1H(7)."

Seconded by Commissioner Stagner.
All responded to a Roll Call Vote.
Motion carried unanimously.

OPEN MEETING: "Mayor Montgomery stated that the Commission was now in Open Session."

CERTIFICATION "Commissioner Stagner certified that only matters pertaining to Personnel 10-15-1H(2) City Manager Contract and Pending or Threatened Litigation 10-15-1H(7) Deborah Toomey and Appeal by Kim Audette et al in District Court and no action was taken.

Seconded by Commissioner Green.
Motion carried unanimously.

Mr. Rubin announced that the City and Jaime Aguilera have reached an agreement to enter into a new City Manager employment contract effective September 28, 2008, for a three year term. The yearly salary to commence September 28, 2008, will be \$81,500 dollars with \$5,000 dollar increments for successive years. Under paragraph 5A of the old contract we will change that to semi-annual performance evaluations and each commissioner shall provide the employee with a copy of their written evaluation. Under paragraph 7A of the old contract we will delete "the parties stipulate the employee is credited with thirteen days vacation and thirteen days sick leave during his first year of employment with the City." All of the other provisions will be the same.

Commissioner Renfro reiterated for official business only.

"Commissioner Stagner moved to accept the contract as stated by the City Attorney."

Seconded by Commissioner Torres.

Mayor Montgomery, Commissioner Stagner,
Commissioner Green and Commissioner Torres
Voted in favor of the contract.
Commissioner Renfro opposed the contract.
Motion carried.

Commissioner Renfro opposed the contract because of the salary increase and would have preferred a one year contract.

“Commissioner Stagner moved to instruct the City Attorney to respond to the appeal in District Court.”


Mr. Rubin stated he believed the appeal is governed by procedures governed by Rule 1-074 from the District Courts in New Mexico. The City will be filing a record on appeal within thirty days of when we were served with the Notice of Appeal.

Seconded by Commissioner Renfro.
Motion carried unanimously.

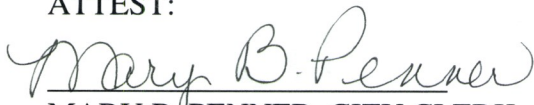
Mayor Montgomery stated the issue on Ms. Toomey was for our information only.

ADJOURNMENT There being no further business to come before the Commission the meeting was adjourned.

APPROVAL: PASSED AND APPROVED this 14th day of October, 2008, on motion duly made by Commissioner Jones, seconded by Commissioner Green, and carried.


LORI S. MONTGOMERY
MAYOR

ATTEST:


MARY B. PENNER, CITY CLERK