

CITY COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
SEPTEMBER 8, 2015

**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 September 8, 2015, starting at 6:00 P.M.

**PRESIDING OFFICER:** The meeting was called to order by Mayor Sandra Whitehead, who presided and Angela A. Torres, Interim City Clerk acted as Secretary of the meeting.

**ROLL CALL:** Upon calling the roll the following Commissioners were reported present:

Hon. Sandra Whitehead, Mayor  
Hon. Steve Green, Mayor Pro-Tem  
Hon. Jeff Richter, Commissioner  
Hon. Kathy Clark, Commissioner

Also present:

Juan Fuentes, City Manager  
Jay Rubin, City Attorney  
Angela A. Torres, Interim City Clerk

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

**CEREMONY:** Mayor Sandra Whitehead called for fifteen seconds of Silent Meditation.

Mayor Sandra Whitehead called for Commissioner Green to lead the Pledge.

**APPROVAL OF AGENDA:** Mayor Sandra Whitehead stated that some of the items on the agenda need to be postponed for review. She postponed the following items:

City Commission Meeting Minutes July 8, 2015

City Commission Meeting Minutes July 14, 2015

City Commission Meeting Minutes July 28, 2015

Discussion/Action: Resolution No. 10 15/16, a Resolution finding the property at 808 Maple St. to be a dangerous and unsafe structure; Robbie Travis, Building Inspector

Discussion/Action: Approval and Authorization to accept the Grant and Award of contract for NMFA Planning Grant to complete a Water Conservation Plan and to enter into an agreement between City of Truth or Consequences and Engineers Inc. for professional Services to Complete a Water Conservation Plan; Traci Burnette, Water/Wastewater Administrative Assistant.

Mayor Sandra Whitehead called for a motion to approve the Agenda as amended.

“Mayor Pro-Tem Steve Green moved for approval of the agenda for September 8, 2015 with the exceptions that the Mayor noted.”

Commissioner Russ Peterson Seconded.

City Manager Juan Fuentes mentioned that item E2. City Commission Meeting Minutes July 8, 2015 were added by mistake and will not be brought back to the Commission.

COMMENTS FROM  
THE PUBLIC:

Motion carried unanimously.

Mayor Sandra Whitehead called for Public Comment, noting those wishing to comment would get three minutes, may only approach the podium once, and any material for the Commission was to be left in the black box by the podium.

Carole Wheeler approached the podium and apologized for her outburst at the last City Commission meeting. She mentioned that while she is sitting in the car trying to listen to the City Commission meeting on the radio, it's very hard to hear.

Mayor Sandra Whitehead called for the next speaker.

Michael Houge, 516 Austin St, T or C, NM. He stated that he is been asked by many senior citizens to speak to the Commission on their behalf, concerning several SJOA facility issues. He noted that there is no handicap parking space to the main entrance on Fourth Street which presents a burden on handicap seniors. Also the drainage canal on Third Street by the parking lot is no longer functional which is perceived to have resulted in a few minor fender benders due to the parking lot is so narrow. He suggested filling in the drainage ditch to expand the width of the parking lot. Mr. Houge also mentioned that the removable fire barricade in the service driveway between the Civic Center and the Senior Center is not properly mounted on the Senior Center side, which could possibly result in a senior using it for support and it could fall down. He wishes for the Commission to solve these problems and no longer have him involved in these issues since he has done his part.

Mayor Sandra Whitehead called for the next speaker.

Klaus Whittern, 618 Charles, suggested a change to future agendas. He would like presentations to come before public comment so that way the public can respond to them.

Mayor Sandra Whitehead called the next speaker.

Ariel Daugherty, Caballo Road, noted that the vote before the public for Ordinance #665 is about the return the Lee Belle Johnson Senior Recreation Center to the public for community use. She also noted that the long time burning issue of City corruption and content of the City, and Commission holding too much of the public accountable.

Ms. Daughtery noted that they have not passed any Ordinance or Resolution stating that they plan on giving the Lee Belle Johnson Senior Center back to the public. She also noted that all the "vote no" signs are paid for by Space Center Inc. which there is no such entity and they violate 1-20-9 of the New Mexico Election Code. The following rules and laws are not their or your strong suit. She questioned Mayor Pro-Tem Steve Green why he did not mention that he holds a conflict of interest regarding T or C MainStreet as one of its board members. She stated that the citizen's vote for Ordinance #665 can hopefully be a first step in the curb of government corruption.

Mayor Sandra Whitehead called for the next speaker.

Linda DeMarino, Executive Director for MainStreet Truth or Consequences. She stated she was there to give the Commissioners an update on what was going on with MainStreet. She and five members of the board attended the quarterly New Mexico MainStreet meeting in Artesia last month and received an award for their promotions plan. They also opened up the applications for the capital outlay at this meeting so they have been busy applying for that and other grants for improvements. She mentioned that this upcoming Saturday is Art Hop and mentioned a few of the events that will be happening.

Mayor Sandra Whitehead called for the next speaker.

Ron Pacourek, T or C. stated he is here for the item on the agenda regarding Renewable Energy, and noted that the things he brought up to the City Manager and Commissioners has not been changed in the documents. He also mentioned that the part that discusses buying energy back does not specify a wholesale price or a larger price since it should be going up at a later date. He also questioned why they would want to keep the electric records for up to 15 to 20 years after disconnect. He would like somebody to really sit down look at this before it gets voted on again.

Mayor Sandra Whitehead called for the next speaker.

George Szigeti, stated he is here to talk about a couple things, one being the renewable energy Ordinance stating that he thinks it's been reviewed enough and it's time to get it passed and move forward with the process. The second thing he wants to discuss is about the difficulty that the meter readers have getting onto properties. By city code the meter readers are granted access to any property that they need to read the meter. He doesn't understand why the City is playing around with people who will not allow the meter readers onto their property. He suggested that we notify them that the meter reader needs to have safe access to the property otherwise we will not provide electricity to them.

**RESPONSE TO  
PUBLIC COMMENT:**

With no further public comment, Mayor Sandra Whitehead moved on to the next item on the agenda, response to public comment.

Mayor Sandra Whitehead thanked everybody for their public comment and reminded them that it is very important to the Commission.

CONSENT  
CALENDAR:

Mayor Sandra Whitehead called for the next item on the agenda, the Public Utility Advisory Board Meeting Minutes July 20, 2015 and Accounts Payable August 2015 and motioned to approve the items.

Mayor Pro-Tem Steve Green seconded.

Motion Carried Unanimously.

PRESENTATION:

Sandra Whitehead called for the next item on the agenda

**Discussion/Update: Water Meter Presentation; Jesus Salayandia, Water/Wastewater Director:**

Jesus Salayandia, Water/Wastewater Director, and Isaac Fuentes, Water Department, presented some pictures of the water meters and the difficulty they have getting to them. They explained that there are fences that they have to climb, hills to go up, snakes to watch out for, and walls to go over to get to the meters. Jesus Salayandia stated that he has a lot of confidence in his meter readers and that they work hard and run into a lot of challenges during their day.

Sandra Whitehead thanked them for their presentation and asked for questions or comments.

Commissioner Jeff Richter commented that some of the water meters need to have risers put on them to bring them up to standard.

Isaac Fuentes, Water Department, stated that at one time most of the meters were up to standard, but over time they have become harder to get to.

Commissioner Jeff Richter suggested that some of the issues they run into should be dealt with under a code issue since they are code violations and it is unsafe for the staff.

Commissioner Kathy Clark agrees with Commissioner Richter and has seen some instances where the conditions around water meters has changed dramatically and that they need to look into and infrastructure project to upgrade the meters.

Mayor Pro-Tem Steve Green asked about some of the meters being deep in a well and if they have ever lost a meter because they have become buried too deep and who has to pay for that replacement.

Isaac Fuentes, Water Department, stated that the City has to pay for it.

Mayor Sandra Whitehead thanked them for their presentation and moved on to the next item on the agenda.

**Discussion/Update: Electric Meter Presentation; Bo Easley, Interim Electric Department Director:**

Bo Easley, Electric Department Director, started his presentation by showing the Commissioners all of the keys that are given to them by residents to gain access to the property to read the meters. He went through some pictures of the electric meters and demonstrated the difficulty meter readers have reading the meters. There has been some meters replaced which are a bit easier to read, but they run into another problem where the plastic on the meter fades, and they can no longer see the numbers. He also discussed the other problems meter readers run into like dogs, six foot fences, weeds, cactus, and the difficulty of reading meters with binoculars from the back of the truck.

Commissioner Kathy Clark commented that she never realized how difficult it is to read meters until he showed his presentation. She also commented that she doesn't think she could read the meters herself, and has a lot of appreciation for what they do. She hopes to find a way to get meters that are easily read, and also see what code violations are going on.

Mayor Pro-Tem Steve Green agreed with Commissioner Clark, and stated that there is a greater chance for them to read the meters incorrect, with the hazards they run into. He stated that they are willing to help in any way they can to get these problems fixed.

Commissioner Jeff Richter commented that times and people have changed which makes meter reading difficult. He also stated that the wall Mr. Easley showed them with the glass on top is probably a code violation. He also stated that for the last (30) thirty years, Code Enforcement has been really lenient, which result in the situation they have now. Some of the meters are an infrastructure issue and need to be updated.

Commissioner Russ Peterson asked if any of the photos that were shown were related to the utility billing issue they had a few weeks ago.

Bo Easley, Electric Department Director, stated that he doesn't think so.

City Manager Juan Fuentes, stated that earlier that day he was able to go out and read some meters with one of the meter readers, and what they seen in the pictures is exactly what the meter reader sees. He stated that what they saw was that some of the property owners have enclosed their meters in an addition, or in a bunch of plants. They also ran into a situation where an owner had four dogs, but luckily the owner was home and was able to call the dogs off. He stated that the only section in the code that pertains to City access to properties for utilities was last revised in 1962. He stated that most other Cities have an automated system where the meters can be read in one to two days.

Commissioner Kathy Clark asked City Manager Juan Fuentes, who pays when a City worker is injured on the job reading meters, and if there is liability on the property owner for creating a dangerous obstruction. She also asked if any of the employees have ever been hurt or if this kind of matter has ever been brought to Court. Also if the City's Workman's Comp is higher due to the employees working in these dangerous situations.

City Manager Juan Fuentes noted that if any employee gets hurt, it will be covered under Workman's Comp, and it's not based on the danger in the field. It's based on the number of claims filed. He is not sure about any court filings or owner liability pertaining to these issues.

City Attorney Jay Rubin stated that the code is pretty broad stating that the owner has to give the City unlimited twenty-four hour access.

Bo Easley, Electric Department Director stated that this is also listed on the City utility bills.

Mayor Pro-Tem Steve Green commented that they can always work on updating their codes, especially since this Ordinance is so broad and needs more details. They need to first start by updating the codes and enforcing them to make the staff's jobs easier.

Commissioner Russ Peterson commented that this code did not just appear overnight. The problems the meter readers are having did not suddenly appear. No one has taken action for all these years to solve this problem.

Mayor Sandra Whitehead thanked Bo Easley for his presentation.

#### OLD BUSINESS:

Mayor Sandra Whitehead called for the next item on the agenda.

**For Publication: An Ordinance amending the City Code by adding Section 14-48 pertaining to customer generated renewable energy; Bo Easley, Interim Electric Department Director.**

Bo Easley, Electric Department Director, stated that they did make some changes on the Ordinance with the City Attorney pertaining to who can obtain renewable energy, where the applications can be picked up, and the right to deny an application and the owner's right to appeal that denial.

Mayor Sandra Whitehead asked George Szigeti from the Public Utility Advisory Board to approach the podium and give his recommendation.

George Szigeti stated that he wants to keep it as a simple and workable Ordinance for the citizens.

Commissioner Jeff Richter commented that this Ordinance is straight forward and simple to understand. He asked how many people are using renewable energy and if there was a waiting list for this.

Bo Easley answered, "seven people are using it, and there is no waiting list".

Commissioner Kathy Clark commented that she still had a complaint putting the Sierra Electric Co-op rate in the code, because twenty years from now, that might change. She stated that if the Public Utility Advisory Board is recommending approval, than she has no problem approving it knowing that it can be changed if needed.

Mayor Pro-Tem Steve Green questioned the section which stated the City will bill the customer for the installation of the meter and asked if the City is the one buying the meter and where it states that in the Ordinance.

Bo Easley, Electric Department Director stated that the City does not buy the meter, but they do charge to change them out.

City Attorney Jay Rubin suggested a change to part of the Ordinance to add this into it.

Commissioner Russ Peterson moved to approve Ordinance #664 for publication.

Mayor Pro-Tem Steve Green Seconded.  
Motion Carried Unanimously.

**NEW BUSINESS:**

Mayor Sandra Whitehead called for the next item on the agenda.

**Discussion/Action: Community Fall Clean Up Day; Sandra Whitehead, Mayor:**

Mayor Sandra Whitehead stated that as fall is fast approaching, she has been tossing up this idea. She thinks it would be ideal to host a free residential cleanup day, and asked if her fellow Commissioners would be supportive in this. She suggested that they have a free day at the Sanitation Department for residents to take anything they would like to dispose, or have dumpsters in a designated location for them to take their items.

Commissioner Russ Peterson asked if the Commissioners and staff would be the ones cleaning up people properties.

Mayor Sandra Whitehead stated that it would be up to the citizens to clean up.

Commissioner Jeff Richter stated that a lot of small towns have this event, and some also have free tire clean up.

Commissioner Kathy Clark thinks it a brilliant idea and she would also take it a step further to help the citizens clean up. She stated that in the town she used to live in, they did a fall and a spring cleanup and each lasted a week and the stuff would be placed out on the road, but it encouraged people to cleanup since they didn't have to worry about having to haul it off themselves. She asked City Manager Juan Fuentes what the cost would be to do something like this.

Mayor Pro-Tem Steve Green stated that this is a great idea, and they can also count on the recycling committee to be there to help citizens unload items and recycle.

City Manager Juan Fuentes stated that this is something that can be done with City Staff input, and can be brought back to the City Commission.

Mayor Sandra Whitehead stated that she initially thought one weekend would be enough, but she likes the idea of having it for a week, and asked City Staff to come up with some ways that this can be done.

Mayor Sandra Whitehead called for the next item on the agenda.

**Discussion/Action: Presentation & Approval of the Reed Rockets Sculpture; Cary “Jagger” Gustin:**

Cary “Jagger” Gustin, stated that he has been a resident of the City since 1967 and he is here to talk about the Reed Rocket Sculpture, and introduced James Durham to talk about the sculpture.

James Durham approached to podium and stated that Juan Fuentes awarded the Arts Council with a \$5,000 budget to purchase something to be installed at the new Art Park where the old Buckhorn Saloon was. He then introduced Jeff Barbour who designed the sculpture.

Jeff Barbour stated that he was inspired by the reeds around town, and that he loves working with stainless steel. He showed examples of the sculpture and demonstrated how they will move with the wind.

Commissioner Jeff Richter asked how the particular piece was selected.

James Durham stated that it has been on their schedule to purchase a piece of art for quite some time and they combined their money with the County Arts Board to get a bigger and better piece, and they all agreed this was the piece to go with.

Commissioner Jeff Richter asked how tall it was going to be, and what would happen if one of the reeds fell onto the road.

Jeff Barbour stated that the whole sculpture is going to be about (30) thirty feet tall and the reeds will have enough protection that they will not fall onto the road. He also noted that once the piece is installed, the ownership goes from him to the City.

Commissioner Russ Peterson also voiced his concerns about the sculpture falling on the road which is a State Highway.

Jeff Barbour stated that he has talked with the Building Inspector, and they are making the State aware of what is going on with this. He also stated that he will do more research on this to see what he can find out.

Mayor Pro-Tem Steve Green asked if there was a light element in this.

Jeff Barbour stated that it would be a really cool idea, and sees no reason why electricity cannot be installed in it.

Commissioner Kathy Clark commented that she received a letter from the State about her property needing to be moved back, and she knows how frustrating these things can be.



Commissioner Clark also mentioned that Mr. Barbour needs to talk to the State Highway Department about this issue. She is also concerned about one of the pieces flying off during a wind storm.

Jeff Barbour stated that he has done several stress tests on this sculpture to make sure that it will be secure. He also mentioned that it will be in his yard for quite some time before it gets installed and that the area where it will be located is mostly shielded from the wind.

Commissioner Jeff Richter asked what else is going into this art park with the Sculpture.

Cary "Jagger" Gustin stated that Linda DeMarino is the one in charge of the art park, and asked her to step forward and answer their questions.

Lind DeMarino approached the podium and stated that there have been many suggestions and ideas of what to put there, and the art park was the most popular idea. She stated that with a park, comes seating, trees and things like that. There will also be a painting over the graffiti that is there, art panels, and other art pieces. They are in the process of drawing up a picture of what it will look like, and she will bring that to them as soon as they have it.

"Mayor Pro-Tem Steve Green moved to approve the application process presented to us by the Arts Council and MainStreet for the purchase of the Reed Rocket Sculpture, and that money be limited to the amount that is in the City's Lodger's Tax account."

Commissioner Jeff Richter seconded.  
Motion Carried Unanimously.

Mayor Sandra Whitehead called for the next item on the agenda.

**Discussion/Action: Water System Preliminary Engineering Report; David Schwent, Smith Engineering:**

David Schwent, Smith Engineering, passed out a handout to the Commissioners, and noted that it is select pages from what they already have with a few highlighted items.

"Mayor Pro-Tem Steve Green made a motion that David Schwent would be allowed to approach the Commission to give his handout."

Commissioner Russ Peterson seconded.  
Motion carried unanimously.

David Schwent stated that this is the final version of the PER that was presented to the Public Utility Advisory Board in June. He stated that New Mexico Environmental has approved this as of August 31<sup>st</sup>, so the final report includes comments from the Environment Department and the City. He reviewed the report on how the Water System can be improved.

There will be a new 300,000 gallon storage tank installed at the Cook Street Treatment Facility to serve as a back-up to the one that is currently there. A new disinfection system will also be installed at the same time. Mr. Schwent continued with the report, noting the changes that were made and mentioned some of the comments from the New Mexico Environmental Department.

Mayor Pro-Tem Steve Green asked about the part of the report that states the City will be borrowing money at 1.2% and asked if that is really the borrowing rate.

David Schwent stated that right now the interest rates are low and that this report is all estimated.

Commissioner Jeff Richter commented that this report is focused mainly on Cook Street, and asked if there had been studies for the whole town. He also asked if there are other areas facing this same type of failure.

David Schwent answered that yes they have done a study of the entire town, and there is other places facing this kind of failure. He stated that most of the trouble areas are extreme or high risk.

City Manager Juan Fuentes stated that this document being presented is what the USDA requires and at the next meeting they will be presented with the authorization to apply with USDA.

David Schwent commented that there is no action needed on this item and it is simply a presentation.

Commissioner Kathy Clark stated that she would like to see this plan with meters installed properly, and the problem that they are going to run into downtown is that the waterlines are on the sidewalk and in the street, so they are will need permission from the State. She also commented that this is not going to be a small project because they are going to have to dig up all of downtown.

David Schwent stated that there are some places that only small things need to be replaced, and there are some spots that will have to be dug up and it will take a lot of coordinating.

Commissioner Kathy Clark would like to see an overlay that includes everything being done at one time.

City Manager Juan Fuentes stated that they will proceed forward with the application for USDA, and also look into funding for other smaller planning studies to address other issues but will be included as a separate document.

David Schwent clarified that the waterline replacement also includes hydrant valve, and meter replacements, that are associated with those waterlines. The first phase of this project is the Cook Street updates which gives them time to coordinate other things to be updated.

**REPORTS:**

Mayor Sandra Whitehead wanted to recognize the City staff that is in the audience before moving on with the agenda.

Mayor Sandra Whitehead called for the next item on the agenda, reports.

City Manager Juan Fuentes reported that he was selected to serve as the Vice President of the City Manager's Association, and stated that they have quite an agenda ahead of the regarding the hold harmless issue. He also mentioned an item that will be impacting the City in their next financial report, which is a new Gatsby requirement 68, which relates to the PERA liability that the State has. The City will have a liability that will show up on their books. He also commented about community events, and some ideas that they received from other cities to start planning the City Centennial Celebration. He mentioned a kiosk that the Mayor was looking into, to make it easier for customers to make payments.

Attorney Jay Rubin reported that a few months ago a lady was attacked by a dog while walking down the street and the trial was held last Friday. The City was successful in the trial, and the dogs were deemed as vicious according to the City Code.

Commissioner Russ Peterson reported that he would like to have another executive session regarding personnel because he believes there are still some issues he has that have not been responded to.

Commissioner Jeff Richter, no report.

Commissioner Kathy Clark reported that she agrees with Commissioner Peterson, and thinks that they need to have an Executive Session regarding Personnel and Job Descriptions for clarifications.

Mayor Sandra Whitehead reported that she attended the New Mexico Municipal League Conference with the City Manager, and commented that they did a fabulous job. Not only at their meetings, and presentation, but also with their meals and entertainment. She was excited about all the vendors, and booths that were set up, and was given a bunch of different ideas that could be used in the City. It was well worth her time to go.

Mayor Pro-Tem Steve Green, no report.

**EXECUTIVE SESSION:**

Mayor Sandra Whitehead called for a motion to go into Executive Session; prior to executive session they will take a five minute break.

"Mayor Pro-Tem Steve Green moved that the Commission go into executive."

**1. Purchase, Acquisition or Disposal Real Property 10-15-1H(8)**

**a. James & Michael Burford**

**2. Pending or Threatened Litigation 10-15-1H(7)**

**a. Estate of Nick Montoya vs. City of Truth or Consequences**

Commissioner Russ Peterson seconded.

Mayor Sandra Whitehead called for a Roll Call Vote.

Hon. Sandra Whitehead responded AYE to a Roll Call Vote.  
Hon. Steve Green responded AYE to a Roll Call Vote.  
Hon. Jeff Richter responded AYE to a Roll Call Vote.  
Hon. Kathy Clark responded AYE to a Roll Call Vote.  
Hon. Russ Peterson responded AYE to a Roll Call Vote.

Motion carried unanimously.

OPEN SESSION: Mayor Sandra Whitehead stated the Commission was back in Open Session.

Mayor Pro-Tem Steve Green noted that in executive session discussion incurred, no action taken.”

ADJOURNMENT: Mayor Sandra Whitehead called for any further comments or questions. With none coming forward, she called for a motion to adjourn.


“Mayor Pro-Tem Steve Green made the motion to adjourn. “

Seconded by Commissioner Kathy Clark.

Mayor Pro-Tem Steve Green asked for any further questions or comments, with none coming forward, the Commission adjourned.

CERTIFICATION: PASSED AND APPROVED this 13<sup>th</sup> day of October, 2015, on a motion duly made by commissioner Steve Green and seconded by Commissioner Kathy Clark, and carried.



  
Sandy Whitehead, Mayor Pro-Tem

ATTEST:

  
Angela A Torres, Interim City Clerk