

CITY COMMISSION MEETING MINUTES  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
CITY COMMISSION CHAMBERS, 405 W. 3<sup>RD</sup> St.  
WEDNESDAY, AUGUST 9, 2017

**A. CALL TO ORDER**

The meeting was called to order by Mayor Steve Green at 9:00 a.m., who presided and Renee Cantin, City Clerk-Treasurer, acted as Secretary of the meeting.

**B. INTRODUCTION**

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

Hon. Steve Green, Mayor  
Hon. Sandra Whitehead, Mayor Pro-Tem  
Hon. Kathy Clark, Commissioner  
Hon. Rolf Hechler, Commissioner  
Hon. Joshua Frankel, Commissioner (by telephone)

Also Present: Juan Fuentes, City Manager  
Renee Cantin, City Clerk-Treasurer

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

**1. SILENT MEDITATION**

Mayor Green called for fifteen seconds of Silent Meditation.

**2. PLEDGE OF ALLEGIANCE**

Mayor Green called for Mayor Pro-Tem Whitehead to lead the Pledge of Allegiance.

**3. APPROVAL OF AGENDA**

Mayor Green asked to move Item I.6 before Item I.5.

**Commissioner Hechler moved to approve the amended agenda. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.**

**C. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)**

Mayor Green 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.

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Alice Hutchins addressed the Commission related to:

1) Wanted to say she is in support of the Women's Recovery Program. She doesn't know how or where it will take place but we are a community that deeply cares about each other and our community. She would like to say it's a great thing for our community and she would love this body of leaders to be behind it.

Sherry Fletcher addressed the Commission related to:

1) Here to speak regarding the Animal Shelter. She knows the City and the County has been together on this. She knows Mr. Fuentes has been on top of this and they certainly supports that and we are hoping we move forward. She understands there is a Ad Hoc Advisory Board, but that is exactly what it is, and Advisory Board. When it gets down to actually looking at the facility and the laws that go into that and that's the City's responsibility. The City has submitted \$72,000 to the project. She is a County Commissioner, and is definitely in support that we move forward, so we have a place for our animals.

Diane Lombardo addressed the Commission related to:

1) Is here to talk about the Animal Shelter Board. First off, Eliana has put in an article with doubts about the City being able to do this. She brings up the past and we're in a new century. A lot of people have come to her and she tells them we are going to get a board to make sure nothing like that happens again. However, they would like a board with a little bit of authority. There are reasons for that, they would like an Animal Shelter Manager that can come to the meetings once a month with stats for 501c purposes. Also looking at live releases and how we can build better strategies to reach close to a no-kill. This isn't the Utility Board, this isn't the Zoning Board, we need people who can say this is wrong, we've got to change it. Just because we need to keep these poor animals who are in the shelter through no fault of their own. Shelter Manager's, not saying that this one will do it, or the next one, have made really bad mistakes. Case and point, two recent close to home. Bernalillo Shelter Manager was adopting out aggressive dogs. No one was there to look over her and say, "you can't do that". Closer to home, Mesilla the Shelter Manager was a hoarder and was not putting any animals down, in the end when she stepped down it was a matter of mass slaughter. Not a dry eye there and she went through that herself. She worked in Harrisburg, there was a preventable disease for cats. The Shelter Manager wouldn't get the vaccine and we ended up going cage to cage to put down these cats for a respiratory illness that was preventable. The Board in Harrisburg overruled her and we got their shots. Compassion fatigue for the Shelter Manager, they need someone to go to who knows how hard the decisions are. So we need a board with authority who can help with all of these issues. And remember they are living beings.

Lee Alirez, 507 McAdoo addressed the Commission related to:

1) Wanted to introduce someone today. On July 19<sup>th</sup> we had a severe storm come through our city which ultimately resulted in taking down our hundred foot communications tower. They called them that night and as of that night, they started putting together a crew and the next morning they sent a work crew that not only got all

of the radios running, also dismantled and took apart the tower that came down. Frank Longoria, RTC Communications, they've been in business for over twenty years and they cover a great portion of New Mexico and Texas for communication services. He wanted to publicly thank them and their company for their response and immediate actions during that storm. The only antenna that actually survived that storm was the Utilities Department. They were able to come with parts they had on stock from the information they received the night before and got everything up and running. He thanked them for their fast response.

Ron Fenn, 316 N. Foch addressed the Commission related to:

1) In July, he found an article for his award for the Rotary Club. This isn't really an award, it's a receipt for a \$1,000 donation, so as his wife gives out several times that much, every year and doesn't get her picture in the paper, it's kind of pointless. But it did bring to his attention the Rotary and he did some researching. As a result, he mailed out several invoices in dues that were illegally paid for out of city coffers. He presented invoices for the repayment of dues to Rotary for: Juan Fuentes, James Morgan, Lee Alirez, Renee Cantin, Russ Peterson, Chief Patrick Gallagher, and Jaime Aguilera. There were some others and there were no names attached and he hasn't calculated who they are yet. This is unreasonable and not correct, it's the people's money. Rotary is a private organization, it is a social and business organization. And whether or not you do some little good, it doesn't matter. This is not due to be paid for by the citizens for this community. Him for one. He believes the money needs to be returned to the city and dealt with in a prompt manner. It will be pursued further if that money has not been returned.

Sophia Peron addressed the Commission related to:

1) Last meeting the Mayor went on and on about recusal and how appropriate it is to recuse oneself. Well, the Mayor votes every time on the MainStreet and doesn't recuse himself. Commissioner Frankel recuses himself and he's on the board. At the last meeting where we talked about the cell phone tower, Commissioner Clark who lives across the street from the cell phone tower forgot to recuse herself and forgot to tell everybody about it. She guesses the people from the cell phone tower got her to recuse herself because she didn't vote in the final discussion. Then last week Mr. Hechler who works for the Spaceport America full-time, and for Fiore Industries, talks about conflicts of interest. He voted on February 28<sup>th</sup> for a Memorandum of Understanding with the Spaceport and with Spaceport Tours that are all bankrupt and gone and did not recuse himself when he is a direct employee of Spaceport America. Now there's no reason to even turn this in to anybody, because they will just tell you to redo the meeting and you're going to have to redo the meeting anyway because there is nobody giving Spaceport Tours. There is false information all over the internet. On Sunday, she popped in to the Spaceport Visitor's Center and she walked in behind a couple and the big empty space with two exhibits was open. There were about four stools there, or benches, and two exhibits, the lights were off and the folks in front of her were wandering in. She said, what do you think? She could hear their German accent. She asked if they tried to see the Spaceport and they said they did and contacted everybody and nobody got back to them. Some guy who was there and has a warrant out for his arrest in Mississippi is the greeter

and he told them there would be a tour in two weeks. If somebody is getting hired, please tell them, they want to make sure they do everything legally and properly. So people are coming and getting screwed by T or C and it makes us look really bad.

2) And P.S. the drone summit is canceled until 2018 because you dropped the ball.

Carole Wheeler addressed the Commission related to:

1) She thanked the Commission for the picture of the New Yorker Magazine cover about Dog Parks. It's going to go in their display case as it is.

2) Thanks to the weather cooling off and vacations being over, so there are some volunteers around. She has a current action plan for the Dog Park. If we have any more rain, the weeds are going to be taller than the fence posts and they might have to cut the fence posts down and keep the weeds. Anyhow, there are things in the works and at the next meeting she truly believes she will have some good news for them.

Ted Kozdrowski from Elephant Butte addressed the Commission related to:

1) Here to support Phyllis Mecca and the Women's Recovery Program. He would like to see this program implemented and be successful. And since he's worked with these type of people before, he would also like to see the Commissioners support companies like TheMac as they come in. Because once these people are rehabilitated, they're going to need jobs so they don't get back into the same rut they were before. He appreciates the effort and that they give Phyllis the support for her permit and also for companies like TheMac.

#### **D. RESPONSE TO PUBLIC COMMENTS**

Commissioner Frankel commented he is a member of the Rotary Club and pays his own dues out of his own pocket.

Commissioner Clark doesn't know the issue with the subscription and dues but she thanked Mr. Fenn for bringing that up and they will look into it. To Police Chief Alirez, she knows how important it was for getting that tower up. She thanked them for being so quick on their response.

Mayor Green thanked Ms. Hutchins for her comments. To Ms. Lombardo there might be a time when an Advisory Board may be needed as we have other Advisory Boards. The operable word here is advisory. This position is a staff position, and they will report to the Chief and therefore it sends mixed messages where you have someone who is on staff who reports to their superior but is also given orders and instructions by a volunteer board. It can be very confusing and detrimental to the staff member. With that said, they certainly want to capture the passion and knowledge you would bring to an Advisory Board. And he would like to suggest we give this person an opportunity to get this shelter up and running and then call for people who are interested in coming up with an advisory board. But he thinks it's going to be a non-starter if they want to have certain control over an employee.

In relation to Rotary, he feels its money well spent. In Subscriptions and Membership Fees, we have it in our budget. He feels it's a valuable organization in our community and

as we support other Non-Profits on Subrecipient Grants, that do good deeds, he sees no reason why we should not continue to do this.

**E. CONSENT CALENDAR**

1. City Commission Regular Minutes, June 14, 2017
2. City Commission Regular Minutes, July 12, 2017
3. Golf Course Advisory Board Minutes, May 2, June 7, & July 5, 2017
4. Accounts Payable, July 2017

**Mayor Pro-Tem Whitehead moved to approve the Consent Calendar as noted. Commissioner Hechler seconded the motion. Motion carried unanimously.**

**F. PUBLIC HEARINGS**

1. Public Hearing: Infrastructure Capital Improvement Plan (ICIP). Traci Burnette, Grant/Projects Coordinator

Grants Projects Coordinator Burnette gave a presentation which is part of the agenda packet. She explained the ICIP process and what infrastructure that would be included. They ask to identify the projects and then prioritize them. She named all of the items that have been funded and were listed on the ICIP. Current Projects being funded include: The Law Enforcement Complex; Water/Electric Meter AMR's; and Cook Street Water Treatment for USDA. In the packet is last year's list to be used for editing, reissuing, and prioritizing.

City Manager Fuentes added his comments to her presentation. This is a public hearing for input on these projects and any new projects the public would like to see as we are moving on. The municipalities are required to include the current projects, so they are not in any particular ranking or prioritized. He reviewed the items on the list and gave more detail on those projects. He added in the past we put road improvements and noted they now want specific roads to be identified. It's an opportunity for the public to give input on these projects.

Commissioner Clark thinks after what has happened with the rains in the last month that we should be putting a lot of focus on the water delivery system and the North Water Well. She is curious about the Civic Center improvement. When we passed the 1% Convention Center Tax, part of this should be for that. If we do storm drainage, we need to put a project in for downtown. If we are going to do storm drains, it means we are taking part of the downtown and we should be replacing water lines, communication lines, and combining all of those together and not one after the other. With Storm Drains, Souder, Miller has been testing water downtown for contamination for years. We will have to watch areas where there were old service stations and we need to watch for contamination. Another thing was the Veterans Wall and she understands that's been put on hold. City Manager Fuentes responded we do have funding through the Legislative Appropriations for the replacement of the Veteran's Wall with the granite wall.

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The funding was put on hold, but has been release since. Commissioner Clark thanked him for that.

Mayor Green wanted to add he and Grants Projects Coordinator Burnette went to an NMDOT conference in Elephant Butte and invited them to have a meeting with us to Come up with some sort of a plan on the issues Commissioner Clark mentioned. But we've got to come up with some issues on our part and what we would like to do and how they can help us. He appreciates that because Grants Projects Coordinator Burnette brought it up at their meeting. He also asked if staff was consulted on this list. Grants Projects Coordinator Burnette responded staff was included in putting this together and this list is what was included last year. City Manager Fuentes said most of the projects are some that the Commission has requested to include for the future. We understand the needs for things like storm drainage, but this is a wishlist and not everything will get funded.

Mayor Green opened it up to the public. We only had one person sign up.

Ms. Sophia Peron said contrary to what Mr. Fuentes said the Infrastructure Capital Improvement Plan for a city is a road map to what they want to spend this year, today, next year, and in the future. Since she's been coming to these, the first five years, the number one thing on the wish list was a waterfall coming down on tank hill. This is where neighborhoods get together and tell you what they want in their neighborhoods. Then they come to the Commission and bring their lists and they discuss how they are going to fund it. She sees a lot of things that aren't there. These are not just fairy tale things. This is time for our citizens, the Police Department, Boards & Commission's bring their public input. That's why you just sit there and look at the list. She recommends a real public meeting for the town to talk about their wish list. All you are doing is going further and further away and nobody notices it. It's like National Night Out, you're suppose to go into your neighborhoods and meet with your neighbors, instead of going to the Fair Barn where people with no transportation cannot go. Please don't come. Thank you.

Ron Fenn wanted to speak about the Regional Safety Complex. He sees it was originally No. 1 on the list or road map. This confuses him because this city has operated with Police Departments in spaces no bigger than 4,900 sq. ft. The application as diminished and is continuing to diminish and now we are looking at funding a 12,000 sq ft. building for twelve Police Officers. It's going to be over \$4.5 million. As far as what's important, this is not. The Police Department is not going to operate better, the city is not going to be safer with a new building. Unfortunately, you are talking about funding it already like you did with the trash plant that wasn't approved by the people. Where is the sense, where is the logic behind all of this. If we need drainage, water lines, you name it, these things are being pushed aside for a public safety complex which can prove no value whatsoever. He sees the Seniors project is way down on the list. Put them back the in the Lee Belle Johnson Center. You can see there is no one parking in that area, because no one is visiting it. The facilities that are in there belong in Commercial Buildings, if they can afford to operate that way. So the Senior project you can put it at the top of the list and for very little money, take out the displays, send Geronimo Trails into a commercial

building where they were before. That is their facility and they need it back and it should be returned to the people and taken off of this list. It won't cost very much and certainly won't cost \$4.5 million. That's throwing money down a rat hole.

Erica Baker, Sergeant with the Truth or Consequences Police Department.

Just wants to say thank you to the Commission for the Law Enforcement Complex. Everyone is going to have their own opinion on why that building shouldn't go forward. But she can speak on behalf of her patrolmen and the rest of her department that it is important to them. They don't feel like it's a waste of money. They put their lives on the line everyday for this entire community and they are very grateful that they even have the opportunity to talk about having a new building for themselves. She's been with the Police Department for six years and it's pretty cramped in there. They do have plans to possibly hire more people to help them out. She wanted to say thank you and they are very excited to have the opportunity to have the Regional Safety Complex built for them.

Martin Nigel said thank you because this is a really difficult job. The water and sewer issue doesn't seem like a big problem. He turns on the water the tap comes out, he flushes the toilet it goes away. It's not a romantic problem, but its important. Every city has this problem and it's been delayed and lets do this or that, rather than the basics. That should be the number one priority. One book about 7 habits of highly effective people, they talk about the four squares. One of them is important, but not urgent. Once the pies fall apart, it's like a little thing that crumbles. For the Police Station, he always thinks about recycling like we have that old school that is not totally used and that would be a possibility, but he doesn't know anything about the details. He said anyway, thanks for doing your job.

Sheriff Hamilton doesn't know if you have selected any order for these projects. He would like to see the delivery systems for our utilities placed at the top. These are definitely infrastructure projects we need to look at. About a year ago, there was a water line break just up the road by his residence on Kopra St. He was notified by the Utility Water folks that they needed to switch over to another valve system and put him off a residential line that busted and he guessed on a larger line. When they were going around with a pressure gauge, and putting it on each of the houses there. They were concerned some of the older residents would have problems because of the pressure. He has old copper lines at this house and this is a cost he would've incurred had there been a breakage. These are truly infrastructure items. He attended the County ICIP meeting and the difference between infrastructure items and projects. We have projects we would like to see done. But truly we can narrow this down to just infrastructure items. And he really think the delivery of our utility system needs to be at the top of the list.

Klaus Wittern 618 Charles.

In the original part he didn't see drainage on the part. He heard later it's on the radar screen and he appreciates the drainage on the list. The infrastructure only causes problems intermittently but when it does it's a problem. It's not just a local problem, it's a problem nationwide. One on the ICIP that is critical is the AMR project is certainly the wrong name, he thought we agreed to the AMI and if staff doesn't understand that it's

critical that they be educated on it. It's a significant technical difference that must be understood. If staff doesn't understand that it's critical they be educated on that. The last item he would think we would want to address is attempting to understand the relationship between physical systems and accounting systems. It's not under control in the current budget and audits. It's critical for the city to spend some time to get that one under control. There is currently in the budget, no allocation for costs to the utilities that they receive from the General Fund. That's critical. One of the utilities provides significant loans and costs to the General Fund. But the General Fund is spending money on behalf of those departments, and it's not accounted for in the budget. He thinks staff needs to be empowered or directed to cure that problem. He thinks we sometimes need to step back in order to get to the real problems that we have. Thank you.

Police Chief Alirez wanted to speak briefly on the behalf of the Law Enforcement Complex. He heard Mr. Fenn's comments on whether the community is going to be safer. He wants to tell them that what is going on here is on a more global level than a building the Police Department has an incredible staff and he added, "yes, it will be a safer and better community." Because they are going to offer services that they don't have the room to offer and is much needed. Youth Services; Parent Education; Cadet; Explorer Program.. He can't even increase the field officers because of the room they have now. He is very thankful for the Officer's they have now who look for fifty ways to get around obstacles to get the job done. They currently house, Animal Control, Animal Shelter, and Code Enforcement and they are busting at the seams. He just wants to say when this is up and fully running there will be an excess of 40 people working at that facility. They can do crime investigation and other services that are much needed in this community.

City Manager Fuentes wanted to clarify in regards to the funds that were dedicated for the Law Enforcement Complex. He explained they are using the PDGRT which was dedicated for the Police Department and cannot be used for any other project. He appreciates Mr. Hamilton's comments and agrees infrastructure projects are their number one priority. That's why they have been trying to upgrade our infrastructure. He let him know we are in the process of applying for funding for the Cook Street Water System to upgrade that. Unfortunately, some of the quality of life project do struggle.

Mayor Green echoed City Manager Fuentes's thought on utilities brought by Sheriff Hamilton. He explained the building Martin brought up is a County building and would not be available to the city at this time. He believes he heard the city has two boards and he came up with the Recreation Board; Golf Course Board; Airport Board; Hospital Board; Lodger's Tax Board; and Library Board. So there is opportunities for citizens who have interest in volunteering in their community by serving on one of these boards.

City Manager Fuentes said it's a public hearing so it will come back to the next meeting for approval. Mayor Green said if you have any other ideas or comments please email the Commission.

## **G. ORDINANCES, RESOLUTION, & ZONING**



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1. Discussion/Action: Resolution No. 05 17/18 and Resolution No. 05-A 17/18 approving the required Community Development Block Grant (CDBG) Annual Certifications and Commitments and Fair Housing Policy. Melissa Torres, Finance Director

Finance Director Torres presented this item with the packet of plans that are required to be adopted for CDBG projects. They are respectively requesting that we approve the annual certificates for the Community Development Block Grant (CDBG). This is our state appropriations has awarded us for \$500,000. They have requirements we have to do to obtain that funding. Upon that requirement is to ensure that we yearly adopt the required Fair Housing forms. This packet is basically what you guys saw last year and we are just renewing this package because this grant is still open for us to use.

**Mayor Pro-Tem Whitehead moved to approve Resolution No. 05 17/18 and Resolution No. 05-A 17/18 approving the required Community Development Block Grant (CDBG) Annual Certifications and Commitments and Fair Housing Policy. Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk. Motion carried unanimously.**

2. Discussion/Action: Request to appeal Resolution No. 15 16/17 related to 1308 Tin Street. Bobbie Hanna, Owner and Robbie Travis, Building Inspector

Building Inspector Travis presented the item. They have been working with her to either fix up or sale this property. She missed the deadline of ten days to appeal the resolution that was adopted. He added she has been very cooperative and responsive, and she is the Granddaughter of the owner and has essentially inherited the property. They are here to set a deadline as to when they will have to get the property cleaned up. She does have somebody looking at the property to possibly buy it. She can explain her situation a little bit.

City Attorney Rubin said it might be helpful for him to provide some comments. The City Commission adopted this Resolution on December 13, 2016, and Ms. Hannah filed her objection on December 27<sup>th</sup> which was within the time allowed. As Mr. Travis stated, he is treating the objection as being timely filed. He feels the next step should be to schedule a hearing for the objection of the resolution. During the interim period the parties can still work with each other to see if something can be worked out. But in order to keep the process going, we need to get a hearing set on the objections.

Mayor Green said to him in general that seems fair and reasonable. He then called for a motion to direct staff to work with Ms. Hannah and give her the opportunity to appeal this resolution. City Attorney Rubin added since Ms. Hannah is here now, maybe we can select a date.

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Building Inspector Travis asked if she would still like to appeal the resolution. Ms. Hannah said she would like the opportunity to be able to sell the property. She can't make people come up with money right away.

City Manager Fuentes feels the Mayor's recommendation was appropriate and that is to have staff get with Ms. Hannah about the date and time. Since this will come before the Commission as a Quasi-judicial, battershell hearing. It would be better to come up with a date and time for the hearing.

Commissioner Hechler would like to know if they postpone the hearing for 30 days, is there still time for her to sell the property? City Manager Fuentes responded definitely before the hearing, she can take whatever action she deems necessary. Commissioner Hechler suggested we postpone the hearing for 30 days. City Manager Fuentes said again since this is an appeal process, he thinks it's appropriate to go ahead and schedule it. But they will certainly keep that thought in mind.

Commissioner Clark has a legal question. Her question is this resolution has already been passed. She asked if we are obligated to go forward based on what the resolution says or do we need to put a motion forward that says we want to postpone this resolution to allow a hearing to occur. City Attorney Rubin said in response the action that has been taken to date, it can be considered as postponed by consent. But now we need to get something scheduled for the objection that's pending. He also agrees with Mr. Fuentes, that we need to discuss and appropriate date. Commissioner Clark asked for further clarification which City Attorney Rubin provided.

Building Inspector Travis said they are trying to work with people and that's why he did it. City Attorney Appel asked Building Inspector Travis to give a timeline for the resolution. Building Inspector Travis stated the Resolution was adopted on December 13, 2016 and her letter was December 27, 2016. Mayor Green said that's one day under the limit. City Attorney Appel said its ten days and you only count working days which went over Christmas, so you are absolutely correct. He followed up on City Attorney Rubin's comments and agreed, you are governed by Section 3-18-5 of the statutes. She is entitle to a hearing and the hearing determines whether that resolution would be withdrawn at that time.

**Mayor Pro-Tem Whitehead moved to authorize staff to come up with a date that's convenient for all parties for an appeal hearing objecting to Resolution No. 15 16/17 related to 1308 Tin St. Roll call was taken by the Clerk-Treasurer. Commissioner Clark seconded the motion. Motion carried unanimously.**

### **H. UNFINISHED BUSINESS**

1. Discussion/Action: Special Use Permit for a Woman's Recovery Program at 819 N. Date Street. Robbie Travis, Building Inspector

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Mayor Pro-Tem Whitehead recused herself from this item because her family owns the businesses that encompass this property.

Commissioner Frankel also has a potential conflict of interest as a real estate agent, he has a property listed that is adjacent to the proposed site and it may be a conflict of interest of the current sellers. Commissioner Frankel's client is concerned with the use of the property as their neighbor. City Attorney Rubin asked if he would anticipate the decision the Commission may make could affect his financial interest directly. Commissioner Frankel agreed it would. Mayor Green thanked him for being forthcoming with that.

Building Inspector Travis presented the item. Ms. Mecca is here so they are bringing it before them because it was postponed from the previous meeting.

Commissioner Hechler stated he took it upon himself to contact the business owner. In his opinion the big problem is over the previous tenants and the problems that arose from that. We should not punish this person for the transgressions of the past. We have an opportunity and could take it and offer it for a year, see how it goes. And not reissue a license down the road if we feel there is too many issues.

Mayor Green has a couple of questions. In the background, the property has been a motel for many years. He asked who the entity is that shut down the previous business. Building Inspector Travis responded it was his department, the Building Inspector. They came in and didn't do things prior and started putting up a fence which was illegal. They had 20 or more calls and met with them and let them know they did not go through the process to do it legally, so they shut it down.

Mayor Green has one other question about the several conditions they would have to meet. Building Inspector Travis responded essentially we thought about a probationary period. But their concern is related to zoning which they meet and permits and all of that being done properly with plans. The fencing is a big concern, signage, proper security. Those are the recommendations.

Commissioner Clark asked if she can talk to the Chief. She wants to make everyone clear that she supports the concept. She has concerns on the layout and logistics. What she has seen is halfway houses, you can close them in and they are not open. She's concerned this is a very open location, it's a situation where everyone has their own entrance and exits. And the person who is living on site, is going to be asleep at night whether there's a camera or not, people could in fact leave, unless there's an alarm on the door. Her concern is for the Police Department and there are several rooms up there and you've got 18-24 people there. She asked how safe does he feel this complex is given his knowledge of what they are trying to accomplish.

Police Chief Alirez wants to go on record that he also supports the concept. His concern is also with the location. They were an absolute recognized program and we saw what happened with that. He explained some of the problems with evictions with the last

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residents. They had many calls for services and 11 open cases at one time. But they were selling drugs out of the back of the place. Ms. Mecca did agree to put a video security system there, but if you don't have someone there 24 hours a day to watch what's going on and have the ability to remove people from the premises immediately upon violating the conditions, you will have some problems.

Mayor Green asked Ms. Mecca to please come forward. She said she knows location keeps coming up and from a program prospective this is a very good location. It's located near the hospital, where these women can receive the services that they need, mental and physical. It's close to the job market in the Northern part of town; close to CYFD so they can work on the reunification with their children; and it's close to the schools so they can still be involved with their children's education. So for a programs prospective, it's a very good location. She's truly sorry whoever was there before messed it up, but it truly shouldn't have any bearing on her program. She's done her research and visited other communities. This program is working in Hobbs and Alamogordo. She's sorry the people who were there made it difficult. Some residents and businesses weren't even aware some of these incidents were going on. She finds it interesting that the person who wrote the letter when she spoke to them about purchasing it, they knew what it was going to be used for and had no complaints at that time. She is just kind of in awe of where to go from here.

Police Chief Alirez just wanted to say in the spirit of cooperation, Ms. Mecca was with him when they called the Hobbs location, and other programs have a home or homes in residential areas that you wouldn't know is a rehabilitation kind of facility. Inevitably, at a location like that there is increased security, foot traffic is going to be recognized immediately, and a lot of the problems that we've had are eliminated just by the location itself. The Manager there even expressed concerns in going from the dormitory style arrangement to a motel.

Ms. Mecca said the difference in motel types of environment that she has, they don't fall under the eviction notices because it's covered in one of the statutes that was mentioned in the last meeting. If they become a problem the Sheriff's Department has also offered to help if it becomes overwhelming or the Police Department is understaffed. Again, they are trying to work with the Police Department and so it's a community effort for everybody to work together to make something happen to better our community and get some of these people off the streets and into better environments.

Mayor Green said as a City Commissioners he rules to support the businesses and the needs of the citizens for services. Is it fair to say this is modeled like other existing programs? Ms. Mecca responded that's correct. It would have been interesting if they would have gotten some letters from some other program Administrator's. He would've loved to see in her application to see people who are living that dream to see what the pitfalls are in those other communities. The other thing is in her literature it shows 16 beds and the diagram shows 20 beds. Ms. Mecca responded another building she was looking at which fell through and it was not updated. This property has more room. Mayor

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Green also noticed she is buying this property. Ms. Mecca said that's correct, she's leasing to own.

Mayor Green asked if there is an option to work with the owner on a certain period of time to give yourself an opportunity to be successful with these women. Ms. Mecca said it won't but she appreciates that. With a lease/option, you're just leasing it, and if it falls apart, you can get out of it.

Mayor Green said there are windows on the alley, did he hear them say they would be secured so they could not sneak out. Ms. Mecca said he is correct, they plan to secure them. Building Inspector Travis added they would check the codes as far as the emergency egress requirements. Ms. Mecca said it's a very structured program.

Mayor Green said he noticed this is not just a local facility with just T or C clients. Ms. Mecca responded if we do have others coming it would just be Sierra County and Socorro County. The other areas come with other problems, such as, gangs which we don't want to have that here.

Commissioner Hechler said say it's 2:00 a.m. and you find out something has happened. How will you know if there's an issue? Ms. Mecca responded it will be a very structured program. Video cameras will help but she will also rely on people in the community who offered to help stay to mentor these people, the women in the program will also be the eyes. It's like with any business, how are you going to know what happens with any business after hours? People aren't there all the time, it's the same concept.

Mayor Green brought up the other programs she mentioned and whether it's a 1 to 10 ratio. Ms. Mecca agreed yes at 1 to 10 or a 1 to 8, it's not a detox facility. Mayor Green reiterated it will be an open facility. Ms. Mecca agreed and personally she doesn't want a fence. She wants them to be part of the community in a productive way, not behind a fence.

Commissioner Clark asked Captain Morgan, her understanding if they are in a hotel or motel after 30 days, it becomes a rental. Captain Morgan said the question is if it will be a living facility or a hotel. With this being a recovery type situation, that's where the question comes up and it would require the eviction process. The way he understands it, it won't fall under the hotel/motel statute.

City Attorney Appel and City Attorney Rubin looked into it and the tenant agreement proposed by Ms. Mecca and it is their view that the agreement creates a Landlord/Tenant type of situation, falling under the Uniform Resident Relations Act and therefore if they needed to remove someone from these rented units, it would have to be done through the usual court order process. And their recommendation would be, as far as the city's police force is concerned, they would not recommend that they intervene to remove someone from one of these units unless they had the appropriate court order.

Mayor Green asked what happens if they pay for services and the services include a place to live.

City Attorney Appel actually looked at something that was similar to that. His recommendation was if there's a problem, yes the police would need to go and address. They could add language like that, where they sign that they expressly give up their rights as a tenant under the appropriate sections of the statutes, and that might resolve the problem. He recommended the police not go in and remove a tenant unless they had an order from a Magistrate.

Mayor Green said in all fairness to Ms. Mecca and the people she has surrounded herself with, he thinks she is entitled to a vote today. He asked Building Inspector Travis about a probation period and what that might be. Building Inspector Travis said he was thinking about three months, six months, nine months, or Commissioner Hechler said a year. City Manager Fuentes wanted to ask legal if it's advisable to put a time frame on a Special Use Permit. City Attorney Appel said that is a very gray area in the law. He feels they could do that, in other states, it has been upheld where they cannot have a time limited Special Use Permit. But he hasn't seen that in New Mexico.

Mayor Green wanted to follow up on City Manager Fuentes' point, her signature on the application or a document for a probationary period. City Attorney Appel said he thinks he is correct, but the Special Use Permit is not signed by the property owner or tenant. It's simply a zoning authorization made by this body. So you would be adding additional conditions on the Special Use Permit.

Commissioner Hechler asked how a Special permit can be revoked. Can it be revoked by each department? City Attorney Appel responded they are owner specific in that they tend to be tied to a specific use and not attached indefinitely. If you want to time limit it, you can and you can impose other restrictions. You should define what would happen if those were violated. He would recommend any violation should be treated like any violation. Commissioner Hechler is looking for an amiable way to get out of this things if they do decide to issue a permit, so that we are not stuck in this thing for a long period of time.

Building Inspector Travis asked if we can go to a Conditional Use. He knows we review those when they renew their Business Registration. He's not sure if that's something we could use or not. City Attorney Appel doesn't see why that couldn't be used. The difference between Conditional Use and Special Use tends to vary from City to City. You might want to consider approving this as a conditional use for a period of one year.

Commissioner Hechler asked Ms. Mecca if a conditional use permit was issued, how she would feel about that. Ms. Mecca responded, she knows she can make this work, and she knows she will make it work. She's not worried about conditions, just tell her what they are.

**Commissioner Hechler moved to approve a Conditional Special Use Permit for a Woman's Recovery Program at 819 N. Date Street. And this permit to be crafted by the City Manager and staff for review by the Commission to be reviewed after a period of one year and including the conditions recommended by staff. Mayor Green seconded the motion. Motion carried by a vote of 2-1-2. Commissioner Clark voted nay and Mayor Pro-Tem Whitehead and Commissioner Frankel recused themselves.**

Mayor Green let Ms. Mecca know they wish her well and to be successful. Ms. Mecca asked when she can expect to receive the permit. City Manager Fuentes directed her to contact Building Inspector Travis after the meeting.

**Mayor Green recessed the meeting at 10:55 a.m. and reconvened the meeting at 11:02 a.m.**

### **I. NEW BUSINESS**

1. Discussion/Action: Award the Professional Engineering Service for the City of Truth or Consequences' current Community Development Block Grant Project (CDBG). Melissa Torres, Finance Director

Finance Director Torres presented this item which is part of the award of the \$500,000 CDBG Grant. Upon that, again our requirements of Professional Services Engineering that we solicited upon DFA's approval. Upon that, she named those who submitted proposals. They received most responses on July 26<sup>th</sup>, however two were unresponsive. Because CDBG was very specific their request was specific. If one of them was non-compliant in answering the specific requirement, then they were classified as nonresponsive. That's how two of them became nonresponsive. It came down to only two, which were submitted to the committee to review. She explained the reasons behind their recommendation. Their recommendation is to award it to Wilson & Company that the agreement also be signed.

Mayor Green asked if their fee comes out of the \$500,000. Finance Director Torres said that is included in the \$500,000 total. Commissioner Clark asked if the SCCOG is the fiscal agent. Finance Director Torres confirmed they are. Unfortunately, when we were awarded that, we were deemed to have a fiscal agent. Commissioner Clark asked what the cost is. Finance Director Torres responded this one is estimated at \$10,000.

**Mayor Pro-Tem Whitehead moved to approve the Award for the Professional Engineering Services for the City of Truth or Consequences' current Community Development Block Grant Project (CDBG) to Wilson & Company and authorize the approval of signatures. Commissioner Hechler seconded the motion. Motion carried unanimously.**

2. Discussion/Action: Funding option for Law Enforcement Complex. Mark Valenzuela, George K. Baum & Co.

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Mr. Valenzuela briefly ran through each scenario and gave a recommendation to use the New Mexico Finance Authority of a 0.1% for the first \$500,000 of the debt and for 1/93% interest cost. The cost for using NMFA for a \$2,185,884 loan would be \$2,737,224 for the average annual debt service. It would be the lowest interest cost and provide the most flexibility. The third option would be going through banks, they would only lend for ten years and then you would have to go back and refinance with whatever principle is remaining. The BBVA Compass second option is very close to the NMFA except you will have to refinance. Bank of Albuquerque had the highest repayment amount. They also tested the USDA, and their interest rates were well over 3%, so they didn't consider them as an option. He also included doing a public offering which is much more costly.

Mayor Green asked for any questions.

Commissioner Clark agrees it's got to be either NMFA or BBVA. She asked what the balance would be in ten years. Mr. Valenzuela said it would be similar to BBVA Compass, which would be roughly \$1.5 million.

Mayor Green said hopefully in the next ten years we can work on the GRT revenue being increased without relying on building projects for that.

Commissioner Clark asked City Manager Fuentes to explain where the tax money is coming from to pay this loan. So that we can all see that the money coming in for this is the money from the Gross Receipts which is designated for Public Safety. She misunderstood that it was for equipment and personnel, so she wanted to make sure it was public record that the money was in fact for Public Safety and it's about \$257,000 coming in per year. She asked if they will have enough for operations also. Police Chief Alirez agreed yes Ma'am they sat down to review the funds and budget to keep operations going in the Police Department and still have the money for this project. They have reduced expenses over 6.6% and they will continue on that track.

Commissioner Clark said her understanding is we are under a deadline with the Animal Control. Police Chief Alirez confirmed.

Police Chief Alirez added they are going to implement some programs and services that are much needed such as Crime Prevention, Youth Services, Police activities, and other things that will be incorporated in that building.

Commissioner Clark said there is also not enough room for records and for storing records. Police Chief Alirez confirmed. Commissioner Clark added with that being said, she would like to see the Police Department get out of the bath house and out of the crematorium business and go into the Police business

Mayor Green said this is probably three years in the making. If you count all of the hours staff has put into this, it would be thousands. He personally thanked our Police Department and our staff. It's been a long hard battle to get us to this day and he thinks the sun will shine in about 1 ½ minutes.



City Manager Fuentes has one unrelated question. The interest is so attractive can we look at that for other projects. Mr. Valenzuela said he's happy to always look at those opportunities. He then explained what would happen with approval here today is this would go for publication, then we would come back on September 13<sup>th</sup> for the final adoption and mid-October could start construction.

**Commissioner Clark moved to approve to proceed with the funding option for NMFA for the Law Enforcement Complex and if that falls through BBVA Compass would be the second selection. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.**

3. Discussion/Action: Impact Fee Board recommendation for reimbursement of fees. Arnie Castaneda, Water/Wastewater Supervisor

Mr. Castaneda gave his presentation. They have been working on their Wastewater Treatment Plant upgrades which is going on as we speak. The project should be closed out within the next couple of months. Phase 2 is underway and has just begun. He explained the funding for this and the selection of the contractor. According to their records the city currently has \$302,000 in the Impact Fees funds that qualify for reimbursement to the Water and Wastewater Projects. The Water and Wastewater budgets fronted the funds to pay for the projects. He showed the list of projects that was compiled and which projects were eligible for reimbursement. They are asking for reimbursement of those funds up to the \$302,000, so the Wastewater budget can handle the shortfall in the Wastewater Phase 2 project. They are currently using some of the operating money to pay for the small projects in the red, and use some of that money for repairs and equipment. He explained some of the problems with our wells and things that have had to be replaced. Again they are asking for reimbursement to help with the existing problems and the shortfall for the Phase 2 project.

Commissioner Clark asked legal about whether the funds have been deposited into an interest bearing account and have been included in separate accounts. She's just concerned about whether the city can properly use those funds.

City Attorney Appel responded we have looked at this in great details. The spreadsheet was developed in their office. All of the work to put them in separate accounts have been done and are in place. As far as legal, there is a lawsuit between the City and Ashbaugh Construction Co. for the reimbursement of development of fees in an amount not yet determined, but it can't be more than about \$20,000-\$30,000. The money could only be reimbursed to the company if it had been misappropriated, spent, and they're not getting services. Those properties have been getting service since the day they were built, as far as they can tell. The status right now is they did not oppose the request to file an amended complaint, which is fairly common and our answer to the amended complaint is due Friday. That's a very small piece because it's only properties that were built by Ashbaugh Construction and they are still owners of the property. This comes to you by recommendation of the Impact Fees Board. These impact fees have been sitting there and have not been used. Meanwhile, allowable capital items have been paid for out of

your Water and Wastewater operating budgets. We look through the Capital Improvements Plan and compared it with actual expenses and in the spreadsheet you will see a column that shows the allowable expense.

City Manager Fuentes added if the Commission approves the reimbursement, he suggested they consider setting aside the amount for the possible need for the lawsuit. City Attorney Appel responded they could do that if they want but he thinks frankly it could be found somewhere else in the budget, if for some reason we did lose the case. He believes there will be some left in the Developmental Fees account after this transfer. City Manager Fuentes mentioned since we are talking about Impact Fees and some people want to identify the Impact Fees, so potentially the Commission could do that. Commissioner Clark asked if they could come back and release that \$20,000-\$30,000 at the end of the project if we need to? City Attorney Appel would think the litigation would be done long before that.

Mayor Green thought he saw an email City Manager Fuentes sent out that the lion's share of this is from the Veterans Hospital project. Mayor Green asked a question if Smith Engineering has errors and commissions policy. Why aren't we suing them for their error? City Attorney Appel does not remember all of the details. They looked into that about a year ago. The contract they had in place let them off the hook. The error occurred in the process of coming up with an amended estimate which was approved by the city which at the time did not catch the fact that they made that error. Once the city approved it, they were stuck.

City Manager Fuentes responded in that case Smith Engineering had come back to them and said they can do the additional work but it's going to cost us a little more. Recently, the Engineers on the application had to do some without charging, so we are getting our money back.

**Commissioner Clark moved to approve the Impact Fee Board recommendation for reimbursement of fees of transferring all but \$30,000 which should remain in the account. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.**

**Commissioner Clark left the meeting at 11:48 a.m.**

4. Discussion/Action: Acquisition of property at the T or C Airport. Juan Fuentes, City Manager

City Manager Fuentes presented the item. There is a mobile home that has been there for probably over 20 years. The gentleman who passed away, was the property owner and use to watch over the airport, his wife still lives there and has a need to relocate closer to family. They are asking the City to purchase the mobile home with addition since it's on the Airport property. Maybe in the future it could be housing for an Airport Attendant, or a Pilots Lounge, or different ideas. Obviously, we can have that discussion at a later date. The offer is about \$17,000, which is an estimate with all of the upgrades they did

and the addition that was built on. If the Commission is interested we could authorize staff to proceed with negotiations for the purchase.

Commissioner Hechler asked if there is any need for repairs. City Manager Fuentes responded, not really. She has kept it in good condition and maintains the property, and the addition she has made is in good condition. It has a propane heater and there are services there.

Commissioner Hechler asked if he envisions on sight management staying there. City Manager Fuentes said if the Commission would authorize us to acquire it, they would have a discussion with the Airport Advisory Board to see what the recommended use for it would be. City Attorney Rubin added if you are able to reach an agreement, it will be brought back to the Commission for approval.

Commissioner Frankel asked about the other utilities. City Manager Fuentes responded it does have a well and is using the Airport Septic Tank, it has its own Sierra Electric meter and propane tank.

Mayor Green said there might be a possibility to rent this to Virgin Galactic employees also to make it an income producing property.

**Mayor Pro-Tem Whitehead moved to authorize staff to negotiate for the acquisition of property at the T or C Airport. Commissioner Hechler seconded the motion. Commissioner Frankel suggested in the negotiations that we try to get the best possible price below \$17,000. Motion carried unanimously.**

1.6 Discussion/Action: Appointment of an Alternate to serve on the Joint Powers Commission in the event the appointed member cannot attend.  
Steve Green, Mayor

Mayor Green asked this to be put on the agenda, as you know, he thinks it's important for three of our members to be present and at the meetings. He recommended the approval to have Commissioner Clark serve as an Alternate for either Mayor Pro-Tem Whitehead, Commissioner Hechler, and himself, if one of them is not available to attend a meeting. Then they will always have three voting members on the board.

**Mayor Pro-Tem Whitehead moved to approve the appointment of Commissioner Clark to serve as an Alternate to serve on the Joint Powers Commission in the event the appointed member cannot attend. Commissioner Frankel seconded the motion. Motion carried unanimously.**

1.5 Discussion/Action: Holloman Air Force Base Environmental Impact Study for F16's. Steve Green, Mayor

Mayor Green presented the item. We received a letter and a thick study. In your packet is the area where they will be flying which is over the lake and over the dam. They would

literally be over our Hospital and Nursing Home within seconds. The potential for noise levels may occur such as sonic booms, he read some of the contradictions in their information. His concern is a couple of things, we have the Sierra Grande which is selling tours on the Armendariz Ranch with bison and bats. He thinks it incumbent on the Commission to support local businesses and having access on that ranch and he's concerned how close it is to our Hospital, Assisted Living, and Nursing Home. He would like the Commission to consider sending them a letter of concern. We certainly want to support the training for our Men & Women in uniform, which is not the issue. White Sands Missile Range is a humongous piece of property. Why are they flying over the east end of the lake and within two seconds at 500 miles an hour from our Hospital and other assets? He thinks we have until August 25<sup>th</sup> to send a letter of concern and he wanted to hear from his fellow Commissioner's to see if we want to support our local businesses and the potential for the noise.

Commissioner Hechler asked if there is any future possibility benefit for income for our community in allowing this. Mayor Green asked that but our runway would not work to allow them to land. Commissioner Hechler said if it's not of some monetary benefit to our community and would be a detriment to our citizens, he would not be in support of this at this time.

Mayor Green thinks all he is asking for is authorization for staff to write a letter of concern that it's over a major asset in our community.

Mayor Pro-Tem Whitehead added we just had a big concern about the helicopter coming in and out with the hospital and how often they would be flying over. Will it be once a month, every two weeks? What is the impact? Mayor Green responded he was told 22,000 soaring's a year. They have to be trained, but why in our area?

Commissioner Frankel would have one concern that may be far-fetched, but would 20,000 sonic booms cause damage to the 100 year old dam? Mayor Green responded also to that point in this document, they talk about releasing chaff which is magnesium strips that light up and supposedly burn up. But he just wishes they would move it over 10 miles.

**Mayor Pro-Tem Whitehead moved to approve authorizing staff to write a letter to Holloman Air Force Base addressing our concerns for this occurring over our lake and town. Commissioner Hechler seconded the motion. Motion carried unanimously.**

Mayor Green will make sure Jay gets the letter.

## **J. REPORTS**

### **a. City Manager**

1) We are in the process for the final hire for the Tourism/Event Coordinator. He learned some of the Lodger's Tax members have decided not to serve which provides a great opportunity to revamp that board along with the Tourism/Event Coordinator.

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2) September 27<sup>th</sup> & 29<sup>th</sup> we have a request for the Legislative Finance Committee to use the Civic Center. This brings up an interesting thought that we might want to consider refurbishing the PD building and moving our Commission Chambers closer and downtown. Just as a food for thought.

3) Next week, Police Chief Alirez, Clerk-Treasurer Cantin, and he will be attending the New Mexico Municipal League annual conference.

b. City Attorney

City Attorney Rubin had none.

City Attorney Appel offered as a former Air Traffic Controller who worked a lot of F-16's at Luke Air Force Base, to review the letter to HAFB. City Attorney Rubin said that might be more helpful than him doing it.

c. City Commission

**Mayor Green**

- 1) Mentioned the article about Jr. Lifeguard who saved the life of a four year old at the pool. A young man, 11 years old, jumped in and saved him. Great job to the newspapers.
- 2) The Hot Springs High School Environthon Team took third place at nationals. The dignity these students bring to themselves, their families, and our community is great. Congratulations!
- 3) Grants Projects Coordinator Burnette did a great job at the NMDOT meeting.
- 4) 40 Relocation Packets were put together for the Virgin Galactic group. We offered them van tours, to take them around and show them where they are going to live. All Las Cruces did was a three line email with a link directing them to their website. So he thanked staff on Monday with Clerk Cantin, Angela Torres, and Priscilla Fuentes who helped put the packets together. We can't fight big city, dollar for dollar, but we can still show them what we've got.

**K. ADJOURNMENT**

Mayor Pro-Tem Whitehead moved to adjourn at 12:13 p.m. Commissioner Hechler seconded the motion. Motion carried unanimously.

Passed and Approved this 13<sup>th</sup> day of September, 2017.

  
Steven Green, Mayor

ATTEST:

  
Renee L. Cantin, CMC, City Clerk