

Steven Green
Mayor

Sandra Whitehead
Mayor Pro-Tem

Kathy Clark
Commissioner



Rolf Hechler
Commissioner

Joshua Frankel
Commissioner

Juan A. Fuentes
City Manager

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REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, IS TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON WEDNESDAY, SEPTEMBER 27, 2017; TO START AT 1:00 P.M.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

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

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

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

D. RESPONSE TO PUBLIC COMMENTS

E. CONSENT CALENDAR

1. City Commission Regular Minutes, September 13, 2017
2. Public Utility Advisory Board Minutes, July 17, 2017
3. Public Utility Advisory Board Minutes, August 21, 2017
4. Public Arts Advisory Board Minutes, August 21, 2017
5. FAA Land Lease Renewal for the Remote Communications Air/Ground Facility (RCAG)

F. PUBLIC HEARINGS

1. Public Hearing: Request for a Variance on #28 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Robbie Travis, Building Inspector
2. Public Hearing: Request for a Variance on Space #11 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Robbie Travis, Building Inspector

G. ORDINANCES/RESOLUTIONS/ZONING

1. Discussion/Action: Request for a Variance on #28 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Robbie Travis, Building Inspector
2. Discussion/Action: Request for a Variance on #11 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Robbie Travis, Building Inspector
3. Discussion/Action: Ordinance No. 690 for publication adding Section 2-210 providing a procedure for the recusal of City Board Members. Jaime Rubin, City Attorney

H. UNFINISHED BUSINESS

1. Discussion/Action: Request to Appeal for Resolution No. 15 16/17 related to 1308 Tin St. Robbie Travis, Building Inspector
2. Discussion/Action: Possible closure for the Pool in the Winter. Juan Fuentes, City Manager
3. Discussion/Action: Appointment of a Minimum Pool Representative. Juan Fuentes, City Manager
4. Discussion/Update: Benefits to the Community for the new Law Enforcement Complex. Steve Green, Mayor
5. Discussion/Action: Authorization to send a second letter of concern to Holloman Air Force Base for the F-16 proposed action area. Steve Green, Mayor

I. NEW BUSINESS

1. Discussion/Action: Appointment to the Library Advisory Board. Renee Cantin, Clerk-Treasurer
2. Discussion/Action: Night Sky Friendly Lighting Program. Kathy Clark, Commissioner

J. REPORTS

1. City Manager
2. City Attorney
3. City Commission

K. EXECUTIVE SESSION

1. Threatened or Pending Litigation (Hot Springs Land Development & 714 Kopra)
Pursuant to 10-15-1(H.7)

L. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.

M. ADJOURNMENT

NEXT CITY COMMISSION MEETING OCTOBER 11, 2017 AT 9:00 A.M.



E.1

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Approve the minutes of the City Commission Regular Meeting for September 13, 2017.

BACKGROUND:

None.

STAFF RECOMMENDATION:

Approve the minutes.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, SEPTEMBER 13, 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

1. ROLL CALL

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

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

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

2. SILENT MEDITATION

Mayor Green called for fifteen seconds of Silent Meditation and read some thoughts about these last few weeks which has not been a good time for planet earth. Hurricane's, floods, wildfires, earthquakes, and mudslides, resulting in the unfortunate loss of life and property. He asked to keep in our thoughts the family of those lost, we are two days past 9-11 which should be in our hearts and minds. And also the first responders who put their lives at risk to save others. They are to be memorialized.

3. PLEDGE OF ALLEGIANCE

Mayor Green called for Commissioner Hechler to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA

Mayor Pro-Tem Whitehead moved to approve the agenda as submitted. Commissioner Frankel seconded the motion. Motion carried unanimously.

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

CITY COMMISSION SEPTEMBER 13, 2017 REGULAR MEETING MINUTES

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.

Millie McCloud, lives on Magnolia addressed the Commission related to:

- 1) Came to give a suggestion from her ladies in the afternoon aerobics class at the pool, asking to not put the cover up in October and save that money to put towards resurfacing the pool. Because its been two years since the state threatened to close the pool down if those things weren't done. And one of those things was to resurface the pool. She would say it would be \$35,000 - \$45,000 you would save, or maybe more where you could resurface it. She saw a proposal for \$61,000 on spraying and painting the surface. She doesn't know if it's still on the table but it seems to her it would be the sensible thing to do and not put that cover on this year only.

Carolyn Carzares, T or C addressed the Commission related to:

- 1) She read in the paper about the meeting tonight at the Civic Center to discuss the flight pattern over the lake. She asked for clarification on the time.
- 2) She asked how far the sound of a sonic boom will travel.

Sophia Peron, Truth or Consequences addressed the Commission related to:

- 1) Sonic Booms and the last meeting discussion of explosions. She noticed ever since she has lived here for 14 years, that every Saturday and Sunday morning about 7:00 a.m. or so, you start hearing automatic gun fire shooting from the gun range. You can hear it all the way in town. She lives in town by the Hot Springs. She's sure other people hear it. She doesn't mind the church bells, but then after the shooting the guy in the plane fly's over in what she calls the flying lawn mower. These people are out there in the mornings driving these planes. These things are quality of life things.
- 2) The night sky ordinance, we have never adopted. It's important, we have stars, we have planets, and stuff we want to look at. Then just taking care of things, the pool and parks is part of it, so let's do it.
- 3) Last week she wasn't here and was so impressed hearing so many of her fellow citizens she had never heard before get up and talk about things they care about.
- 4) She has a document she is going to give to the City Clerk. It's about the way we run business here in the meetings. It's a 2009 decision about meetings that we are in many violations.
- 5) When she went to the website, it says T or C GoDaddy did not pay it's bill. You can remedy them very easily without her to complain about it.

Sharon Eastvolde, 1301 E. Silver addressed the Commission related to:

- 1) Thanked people who are asking us to maintain our dark skies and our natural environment in our area. They are researching how to put in a Chihuahuan desert and those areas can draw in lots of tourists. They heard about how the Village of Corales is having bird tours at \$25 a pop, so keep those things in mind.
- 2) Also commented on Item number 2 about recusing a Public Utility Advisory Member when it's an influence on their income. It's a no brainer, she hopes they pass it.

CITY COMMISSION SEPTEMBER 13, 2017 REGULAR MEETING MINUTES

3) the Public Hearing on Mobile Homes, if you want that closer please keep emergency operations in mind. She just added last night when they arrived, this is more like going home than Albuquerque. It's a beautiful place and they love it for the peace and the dark skies, so please keep that in mind.

Diane Lombardo, Silver St. addressed the Commission related to:

1) Here to talk about the Goldfish issue. She's not really up on what all of this is about. She knows this is about laws in selling animals. If this is for somebody important, would they do it for the average Joe? This is totally mind boggling why it's even an issue. If they are going to sell goldfish, tell them to get a business license. If they are giving them away, she remembers the carnival games where you give the goldfish away. Fish even though they are not cuddly and warm they are a life. Parents have to learn how to keep them alive. They need water temperature, chlorine out of the water, not over feeding, surface to water air. She would bet the fish that are given away, if they don't die in the first week, they will die in the first month. Most people are not going to take time to care for them properly. What if they get ick, most people don't know what to do. She is against this, we have laws, let's stick with them.

Ike Eastvolde, 1301 N. Silver addressed the Commission related to:

1) They are extremely impressed with the wildlife in that area of the city. Just around their property they have listed 41 different species of birds which indicates a healthy ecosystem. It's a great opportunity to take the lands and create a conservancy. Some of the fine lands are by the school. There are many Eco Scientists who could be contacted and brought to bear. Or open space lands can be used to shape the urban form. And once you have research you can provide for outdoor recreation. When he was a young man, he went to a National Monument and was fortunate enough to take a hike with a Ranger and learn of the native people use of desert plants. He was absolutely amazed there was a single plant in the desert the native people didn't use for fiber, food, or medicine. That started him on a lifelong interest to learn about the deserts. He showed there are life-giving species which tell an interesting history. He asked the Commission to keep those in mind.

Elena DeLaTorre, Riverside Dr. addressed the Commission related to:

1) Variance, she lived in #26 and they were asked to vacate because they complained about the mobile home being too close to their property. They moved her shed to the backyard and took away their carport. She added you can stand on the back porch of #26 and raise your hand and measure 5 feet to their porch. They are saying #28, but it's on the other side. She hopes it doesn't pass because it's illegal, there's a gas line between both trailers and people cannot get in. They told us to vacate because we complained to the Code Officer. He doesn't think anyone would live in that one because it's only 5 feet away from bedroom window.

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

1) Mr. Green, good article about the Space Tourism. Seems to him it's an appropriate time to distract people from the real issues of this meeting which is the \$3 million loan for the new Police Station. A few issues, he guesses no one did any checking of facts, but

as far of State of New Mexico is concerned, the Last Frontier does not exist. There is no apparent organization called the Last Frontier as a tour company at all. Later on you say our customer is not the tour operator, it's the MOU for Spaceport America. And you say to their credit since the MOU was in place, they have been paying rent every month. They do not pay rent, unless you call zero a rent, they pay \$300 towards utilities. Rent is the \$3,500 a month they pay for an office in Las Cruces to much wealthier people than we are. And not for a public building or private building.

2) He was reminded that tomorrow there is a free admission to the Spaceport for anybody interested. There is going to be a the Legislative Committee Meeting from 9-3 it will be open and anyone can visit. He called last night for the tours and it doesn't connect to anyone.

3) Follow the Sun Tours couldn't make it, and you think if another group comes in and takes six or seven people out there, they can make a living. Not on his dime, thank you. The Spaceport is a money making organization, but if they give it to them to use, that's anti-donation and it will have ramifications.

Cary Vanderverter, 1005 Kopra St. addressed the Commission related to:

1) He wants to comment on the street repairs. He is for it and thinks a lot of people are. But he feels their method of using property taxes is not the way to go for fixing the streets. He feels they should get it from people who actually use it. For example, he has a home that let's say is \$100,000, his neighbor has one worth \$100,000. She's a widow that doesn't drive a car, and they drive two cars. The cars are what bothers the streets. His neighbor down the street has two teenagers and four cars, but they all pay the same amount. We should try to implement a wheel tax so the cars that use the street would be the ones who pay for it. He would like to see them use something more than chip seal that would last longer.

Debra Peters, addressed the Commission related to:

1) Here to talk about Item 3 for Ordinance 688, the amendment to Section 3-6.A. Like Diane, she is wondering why this is going on. But if it's changed it will open up the possibility for people to sell fish. For the audience who is not familiar with the definition of animal as stated in Chapter 3, it defines animals as any vertebrate member of the animal kingdom, excluding man. So fish are included in this definition. The ordinance is currently written and have prevented animals from being sold at a lot of places like Walmart, Bullocks and flea markets. If this is changed it will open up the possibility of goldfish being sold anywhere. There are approximately 25 species of goldfish, to include some exotic ones that would bring a pretty penny to anybody at a flea market. In other words, by allowing this for one or two people, you are opening it up to every city resident and every non-resident who wants to make a quick buck off feeder fish or exotic goldfish. It's just too broad of a change. Currently, if someone is selling animals and not properly licensed, Animal Control can either site them into court or ask them to cease that activity. If this moves forward they would be subject to the Animal Cruelty ordinance. Putting them in tap water or water that's too acidic or alkaline or the pH is off, can be deadly. Does the average person know this, no. Goldfish for sale would need to be kept at an optimum temperature approximately 70 degrees. This temperature could be monitored by Animal Control who may have a thermometer in their truck. So she asks, rather than open up

this entire can of worms, can't a person obtain the proper license and be done with it? Thank you.

Paul Pearce, resident of T or C addressed the Commission related to:

1) Wanted to answer the question of the impact of sonic booms. He lived in southern Arizona for 44 years and he spends weeks in the outdoors doing hikes and was exposed to the sonic booms and you can hear them for 50 miles when planes were flying over Tucson. And the Air Force always denies when they reach those speeds. People get cracks in their walls, their animals get frightened and it's always denials. When they finally admit it might be their equipment, they claim the damage was done before they flew over. The consequences of being in a flight zone are tremendous, if we allow it to happen, we are stuck with it. It's not a pretty sight.

2) This is one of the poorest places and poorest states in the nation and we don't have a whole lot going for us, so we rely on tourism. The sonic booms can affect that. When you get buzzed by a sonic boom, you can literally be knocked over and scared by one. He moved here to escape this kind of high noise level to have peace and quiet, and he loves it that way. He hopes people will attend the meeting tonight and think long and hard. It's a fast process and the EIS is going to happen really quick. If you're going to make comments or take a stand, you need to do it soon.

Linda DeMarino, Mainstreet Truth or Consequences addressed the Commission related to:

1) They received a grant from AARP community challenge for \$15,921 for a walk program to fix sidewalks downtown. As you know, some of them are historic. They've already been in contact with the State Historic Preservation Office, and a WPA expert because MainStreet Truth or Consequences is a Historic Preservation ethic, so they want to do whatever they can to preserve the historic nature of our downtown. The second part of that is the Walk downtown, they would like to get more people walking through downtown. So the idea is to have community leaders like yourselves leading some of these walks. The downtown area is about a mile, and she will be contacting some of them to get involved and lead these walks.

2) Trick or Treat will be held downtown on October 31st.

3) Scoop the Loop in November 3rd, the day before the Car Show to come the night before. It's cool to see them at a car show and even cooler to hear them revving their engines.

4) Shop small, shop local this year after Thanksgiving.

5) Then Old Fashioned Christmas on the first Saturday which is December 8th. Be sure to get them all on your calendar.

Debbie Jo Pipkins, use to live on Winter Haven addressed the Commission related to:

1) That ordinance to park another Mobile Home 11 ft. From the other mobile home, is ridiculous. Because they had it measured and the utility bill went up twice or three times as high as the following month. They were paying \$150 for a month. They moved here to retire and it's been nothing but a nightmare. Those who bought the mobile home park, just raise the rent and don't clean the park or do anything. She talked to the CEO and he's asked them to move those mobile homes, and these people keep putting it off. And

now they want this other thing to happen, if it's going to happen, people will start moving away from this town. Thank you.

Ron Pacourek addressed the Commission related to:

1) He's retired and is drawing his Social Security. This year he got a \$5 raise but Medicare took that back. So the County can raise their property values 3% every year, and tax it appropriately. But they don't care that our sewer rate went up by 5%, and will go up 5% every year. And with all of these catastrophes it's probably going to go up again. And that doesn't count his sewer which is going up 5% every year and it's compounded. It doesn't care that his car insurance is going up. Now, his insurance is going up and the provider doesn't care, that's more money out of pocket. Haircuts went up 22%, hey that's funny, but it's another \$2 out of my pocket. So when you're thinking about automatic raises are you really thinking about your constituents or what's right for the public, and people who live here? He understands our community is shrinking, but the rest of the people have to pay for more to keep up with what the city is doing now. In the company he worked for it was do more with less. In government, he never heard that, it's like "we are going to do more, with more of your money." Thank you.

D. RESPONSE TO PUBLIC COMMENTS

Commissioner Clark responded to Ms. McCloud feels her comment is very generous about closing the pool and not putting the cover on for the winter. But if we did that, we would need to look at something like a heat exchanger or something else, because we have made a commitment to have a pool 12 months out of the year. But we do know we will find the money to resurface the pool. F-16's she hopes Mr. Pearce will be at the meeting tonight. She feels Ron Pacourek's point is well taken it would be nice if we could do it by cpi index. It's unfair to have 5% here and 1% there. It would be nice if we had the same purchasing power as we did in the 90's.

City Manager Fuentes said just to follow up on Commissioner Clark's comments about closing the pool. We do have some members of the Friends of the Pool, we have not heard from, and we want to make sure everybody's in agreement. It should be an agenda item to discuss and act upon. He wants to make sure the pool users are aware and there are notifications to discuss it in the coming months.

Mayor Green responded to Mr. Pearce. The Commission unanimously approved sending a letter to Mr. Andrew Gomolak from Holloman Air Force Base talking about some of the items that were brought forth this morning. He will be there this evening from 6-8 and encouraged any citizens to be there to make their concerns heard. He responded to Mr. Eastvolde and he has talked to Ms. Anderson, our new Tourism Director who is a birder from Wisconsin. They have talked about tourism etcetera and he appreciates his thoughts. He has two things that are held over from the last couple of weeks. The first is from a comment Mr. Lawson made pertaining to the swimming pool. He then read a letter to become a formal part of this meeting and will be sent to Mr. Lawson.

Randel,

CITY COMMISSION SEPTEMBER 13, 2017 REGULAR MEETING MINUTES

I have always admired a person who has passion, dedication and commitment for a cause; in this case, I am talking about your involvement at the Truth or Consequences pool. First, let me state that I don't remember any City Commissioner putting forth a motion to close the pool because of the financial drain to our limited budget. Yes, Commissioners Clark and Richter did explore other options with the High School that might have been available to us and yet the pool is still here and remains open.

That said, to threaten Manager Fuentes and the City Commission, and I quote "Either this thing gets done, and if Mr. Fuentes will remember, he could be his biggest supporter or he could be his worst nightmare. If this pool closes, believe him he promises he will be all of yours worst nightmare", does not accomplish anything and will not be tolerated.

Rule 17 – Comments from the Public states: Anyone making "out of order" comments as determined by the Presiding Officer may be subject to removal from the meeting. And, any person who violates the Rules of Conduct may be subject to having their speaking privileges removed at future City Commission meetings.

*Hopefully, we can get past this incident and move forward.
Best, Steve Green, Mayor*

Mayor Green said the other thing he wanted to comment on was an article in the Herald. And before anyone thinks he is going to do battle with the Editor and the Publisher, nothing can be farther from the truth. He had a meeting with them to let them know exactly what he was going to do and say because he doesn't like to be blind-sided. It's an article labeled "There is Asbestos Mr. Mayor." He gave a breakdown of the chain of events related to that Firehouse and the use of it. Some of the information that happened in the middle was left out of the article. We did not and do not take this lightly and these were the times the Commission moved on.

E. CONSENT CALENDAR

1. City Commission Regular Minutes, August 9, 2017
2. City Commission Regular Minutes, August 23, 2017
3. Public Arts Advisory Board Minutes, May 15, 2017
4. Accounts Payable, August 2017
5. Approve the waiver for a Special Dispenser's Permit for Bullocks for an event to be held at Our Lady of Perpetual Help Church on September 16, 2017.

Commissioner Clark said on August 23 minutes on page 5 there was a comment about the 1% for the Civic Center, the way it read to her was that it could be used for repairing Water lines and if that's what came across, it's not what she meant to say. It has to be used for the Civic Center and whatever the Tourism Director is doing with it.

Mayor Pro-Tem Whitehead moved to approve the Consent Calendar as noted and checking the minutes on August 23rd, 2017 and make changes if necessary as noted by Commissioner Clark. Commissioner Clark seconded the motion. Motion carried unanimously.

F. PUBLIC HEARINGS

CITY COMMISSION SEPTEMBER 13, 2017 REGULAR MEETING MINUTES

1. Public Hearing: Final Adoption of Ordinance No. 686 authorizing issuance and sale of \$2,188,146 City of Truth or Consequences Municipal Gross Receipts Tax Revenue Bonds for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to a Law Enforcement Facility. Juan Fuentes, City Manager; Linda Melendres, Melendres & Melendres; and Raheel Hirji, George K. Baum & Co.

Mayor Green wanted to add the Gross Receipts Tax is coming directly from the Police Departments budget of $\frac{1}{4}$ of 1% that was authorized, he believes back in 2011 if his memory serves him correctly. It is not coming out of the General Funds of the city.

City Manager Fuentes introduces Linda Melendres and Raheel from George K. Baum who will give a quick overview of the ordinance.

Ms. Melendres is acting as Bond Counsel for the city. She presented the ordinance before them which is authorizing the execution and delivery of a loan agreement and intercept agreement. The pledged revenue was adopted as Ordinance 606 as the Mayor said in 2011 which imposes a Municipal Local Option Gross Receipts Tax, and this $\frac{1}{4}$ of 1% is dedicated to Public Safety. As the Mayor stated it's within the Police Department budget. These revenues will be pledged for building a Law Enforcement Facility. And the payment of the loan agreement cannot reach into any other fund of the city including the General Fund. Based on the Intercept Agreement, the first principal payment will be on May 1, 2018. She turned it over to Raheel to go over the financing. And if there are any other questions on the ordinance, she will be here to answer them.

Mr. Hirji, is an associate with George K. Baum and Co.. He distributed and reviewed the final pricing summary of the Bond. The final amount that was sold to the NMFA was \$2,188,146. It is a 25 year final maturity, meaning the bond will mature on May 1st, 2042. As Linda mentioned the first principle payment will be May 1, 2018. The true interest cost on the bond that was finalized last week ended up at 1.91%. He thinks the figures that were shared with the Commission in July were about 1.93%, so it's a slight improvement based on interest rates as of last week. This is going to be a tax exempt bond for a Municipal Entity and it was issued with a 10 year call option for October 2027 to be refinanced with no additional fee or penalty. Their role was Municipal Advisor and the bond was sold to the New Mexico Finance Authority. Page 4 is the sources and uses of proceeds of the bond. So they are issuing \$2,188,146 in proceeds. \$2 million of that will be deposited to the project fund for the Law Enforcement Facility. The Debt Service Reserve Fund of \$111,734.10 is set aside with the NMFA and kept in the reserve in case there is any delinquencies in the P & I, and if it's not needed it will be released to pay the debt service on the bond. The cost of issuance is used to pay for their firm and Ms. Melendres's is also covered by the \$60,000. NMFA charges their underwriting fee of \$16,411.10 and a rounding amount of \$.80 for that. Page 5 is the Debt Service Schedule and it's right around \$111,734 a year and that is included on the separate Debt Service Schedule that's a separate document.

Commissioner Clark said her only question is when Mr. Valenzuela presented it the loan amount was about \$2500 different. Mr. Hirji responded the debt service and rates are not set until one week before the Commission takes action. Mr. Valenzuela used the interest rates at the time and structured the bond with the rates that NMFA provides them. When the final numbers were set, there was a slight variance of \$3,000 which really pertains to the NMFA Debt Service Fund based on the par amount of bonds that are issued. .

Mayor Green then opened it up to the public,

Opponents:

Ron Fenn has a real problem with this and he hopes they can appreciate it. Nobody talks bottom line anymore. 1.19% what does that mean? Well, he told them it means the \$2 million will cost \$2,752,000 plus to the people of Truth or Consequences and \$2 million is less than the estimate for the construction and we all know construction never falls under cost, it's always over. Just like nobody told them they would have to pay over \$200,000 into building the Healing Waters Plaza. We have a grant for \$200,000, the contractor charged \$395,000, and that did not include any of the work that was done by the City, which was a considerable amount of work. It saves money because we don't record the cost. Give him a break, if any one did that in business, they would be jailed for it.

You just talked about a \$264,000 building you didn't want to put that amount into. If you would've put \$264,000 into the Fire House, it would have been a building worth over \$300,000 if it was brought up to code. Yet, you're talking about \$3,000,000 into a similar building with an asbestos problem that has not been addressed and no estimate. Give him a break, this building will cost over \$3.5 million by the time they are done. The GRT for the Police Department can be repealed and take that half away to put into something like streets or water or things that are necessary in this town. He is comparing this city to Aztec, NM. We have the same demographics and 67% white population but basically the same. They have half the crime rate and fewer Police and a Police Station about the same size as our current building. Mayor Green let him know we are talking about a bond now. Mr. Fenn continued saying we are talking about information that impacts this city and is not just a bond because it impacts this entire city. Part of the Police work is connected with our Judicial System, he gave some budget numbers for those. The Court pays for itself and all of its doing and the Police Department only pays for half. Step back and say what does a building do for the community, when they can't even pay for the one they are in now?

Sophia Peron thinks it would be great if we could do this for the Police if we could afford it, but she would rather just build a brand new one. She lived in Albuquerque through community policing and they went out into the neighborhoods and would work together. After they built a big building for a Substation, they never went out of there for any reason. The Police came to their neighborhoods, the neighborhood association meetings, talked to us. The Code Enforcement came and Fire Department. It didn't matter what kind of building it was. It took ten years but they got rid of the motels on Central. It was an incredible effort and it's nice to have new buildings. She's a professional remodeler, award winning, and she can tell you the National Guard Armory needs to be torn down,

period. Another good thing is to have the Cop Shop downtown, and have open houses down there, and invite people to come into the empty room up front. She hasn't toured in the back and has no idea what it looks like or the square footage. All she knows is we bought it to bail out Kirikos who was going under on the Mortgage. It's a cute place, you can be busy in there and can invite people in, and write down addresses. The other day there was a big bus by her house, she heard it was the Feds. She also had a problem with her neighbor the other night. They had a meeting in front of his house and they should've met at the Police Department in the Conference Room to talk about how they could proceed with the problem. Not worry about whether you have exercise equipment. You can use the House of Pain. Then we have the big Sheriff's Department we paid for to Mr. Whitehead. They have room for exercise equipment in there. Or building something on the hospital property we paid \$670,000 for a few years ago that's empty. We've got a lot of places, but let's pay for the hospital and emergency rooms projects we already have. Or we might want to all squeeze into the Vista Memory Gardens and we might want to raise the rates there, because people will be going there quickly.

Perry Wolfe lives here in Truth or Consequences and he bought a place. Unfortunately the place is shrinking and we are losing people. He was out of town all summer and he comes back and hears about spending this and spending that and the town is shrinking and losing people. Are we going to brace for the population coming in, or are we going to build a big building and get more Police when we don't need it? It sounds like we need so much more like our streets are terrible or the pool was a mistake and should've been a permanent building. When there's a little lightening, then we can't go in the pool. That's all of his thinking for now, and thank you for listening.

Ike Eastvolde is neither opposed or in favor but asked to speak. He talked to the Chief about the facility. He wanted to address construction costs. One of the construction costs could be dirt. There is a lot of dirt going down by his house on Silver now and that could be one of the purposes. The estimate from the project manager at the hospital is that 20,000-30,000 tons of dirt will be moved to a private property of Smith and some can be used for the new building. If you do go forward the loss of that community resource should be stopped and redirected to the project to save money.

Sharon Eastvolde added another expense for that construction company is using drinkable water to keep the dust down instead of the treated water they should pay for. There needs to be a process that analyzes all of those elements.

Mayor Green did speak to our building inspector and there is a meter on that hydrant and they are paying for water.

2. Public Hearing: Final Adoption of Ordinance No. 687 adding Section 2-276 providing a procedure for the recusal of Public Utility Advisory Board Members. Juan Fuentes, City Manager and Jaime Rubin, City Attorney

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City Attorney Rubin gave a brief overview of the ordinance and read the wording from Section 2-276 related to recusal.

Proponents:

Sharon Eastfolde wanted to say it's a no brainer, any appearance of financial gain should get out of the room period.

Opponents:

Ron Pacourek wondered who would make that determination. Second he is a member and there are two who know about solar, so do they have to recuse themselves if they talk about solar. And again, whoever put this up has gone around their board again. If you don't want them to be there, disband them. If they are going to talk about something and someone can't be there.

Mayor Green closed that portion of the public hearing.

3. Public Hearing: Request for a Variance on Space #11 and #28 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Applicants are Jake Skinner and Jeremy Peck. Traci Burnette, Grant/Projects Coordinator

City Manager Fuentes asked for clarification of whether this would be a Battershell process and should be sworn in. City Attorney Rubin confirmed each space should be handled separately. City Manager Fuentes asked if we want to have everybody who signed up to be sworn in at the same time.

Mayor Green gave an overview and asked the Clerk to swear in those who signed up to speak. Clerk-Treasurer Cantin did the swearing in for those who signed up to speak.

Grant/Projects Coordinator Burnette presented both items. Mr. Skinner and Mr. Peck recently purchased Winter Haven Mobile Home Park and came into the office to speak with Robbie about what they could do with the park, and to make sure they were grandfathered in on how many spaces they had. Robbie provided them with the Municipal Code pertaining to M/H's. They proceeded to move 2 M/H's into the park that did not meet the standards for distances parking and Emergency Vehicle Access.

Because the MH had been moved in and partially set, Robbie agreed to work with Mr. Skinner and Mr. Peck and allow #28 to remain since it was within 2 feet of the allowable distance, (however, the neighbor next door to space #28 feels the mobile home is too close and requests the mobile home be moved over the required 2 feet to meet code. Mr. Skinner and Mr. Peck were informed they would have to remove #11 due to its size and code violations, and they agreed. Space #11 is in violation of the Code by 5 feet from the neighbors, as well as blocking emergency access to the rest of the park (50 foot Radius turn around).

Commissioner Clark said so the first space is two feet out of compliance. Grant/Projects Coordinator Burnette confirmed. Commissioner Clark asked how that would affect the

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emergency vehicles. Grants Projects Coordinator Burnette said it would be ok for space #28.

Commissioner Hechler wanted to clarify that prior to moving the mobile homes they were given the code for compliance and moved them anyway. Grants Projects Coordinator Burnette responded that was her understanding is they were given the code ahead of time.

Jeremy Peck, Co-Owner of Winter Haven Mobile Home Park visited with Mr. Travis before purchasing the Park.

Connie Langdon lives in a Mobile Home Park and she doesn't think it's right to have it set up.

Debbie Jo Pipkins asked if it's so illegal to have a mobile home that close, she would like to know why the Fire Department and Police Department let them move them in there. Grant/Projects Coordinator Burnette responded it's her understanding the mobile homes were brought into place and he was not notified until after. Mayor Pro-Tem Whitehead asked why he is not here to answer these questions. It seems like we should have the Building Inspector here.

Commissioner Clark asked for this whole thing to be postponed until the Building Inspector to be postponed. City Manager Fuentes said Robbie already had a prior commitment when the letters were sent out and due to a conflict, he wasn't able to be here. City Attorney Rubin asked Grant/Projects Coordinator Burnette if she is comfortable with answering these questions. Grant/Projects Coordinator Burnette said she has taken an interest and is comfortable with this issue and has been involved with it.

Mayor Pro-Tem Whitehead moved to postpone this until Mr. Travis can be here to answer questions. Commissioner Clark seconded the motion.

Discussion: Mayor Green asked if we can do this. City Attorney Rubin said he believes so, but the Commission might want to see if it inconveniences the applicants.

Commissioner Clark feels we need Mr. Travis here who is the end for questions they may ask.

Mayor Green asked City Attorney Rubin if the vote carries to postpone to put it on the meeting for the 27th will the notice need to be done. City Attorney Rubin directed them to recess the public hearing until the meeting of the 27th that way everyone will have notice.

Mayor Pro-Tem Whitehead revised her motion to recess this public hearing until the 27th at 1:00 p.m. to have the Building Inspector in house at that time to answer questions in all fairness to the Park's owner, as well as, the residents who live in that area. Commissioner Clark seconded the motion.

Commissioner Hechler would like the Fire Chief to attend so they can weigh his comments in the balance also.

Motion carried unanimously.

Mayor Green apologized for those who have spent the energy and time to make sure that you are here for this hearing. But this will make it a level playing field and fair and not put

any staff under undue hardship. Mr. Peck expressed interest to object to changing the date. Mayor Green let him know they have voted.

Mayor Green said that ends that portion of the public hearing.

G. ORDINANCES, RESOLUTION, & ZONING

1. Discussion Action: Final Adoption of Ordinance No. 686 authorizing issuance and sale of \$2,188,146 City of Truth or Consequences Municipal Gross Receipts Tax Revenue Bonds for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to a Law Enforcement Facility. Juan Fuentes, City Manager; Linda Melendres, Melendres & Melendres; and Raheel Hirji, George K. Baum & Co.

City Manager Fuentes reiterated the ordinance is to authorize the sale of the bonds. He wanted to clarify a comment by Mr. Fenn about the asbestos and the study has already been done and it's not an issue.

Commissioner Hechler moved to approve the Final Adoption of Ordinance No. 686 authorizing issuance and sale of \$2,188,146 City of Truth or Consequences Municipal Gross Receipts Tax Revenue Bonds for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to a Law Enforcement Facility. Mayor Green seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Final Adoption of Ordinance No. 687 adding Section 2-276 providing a procedure for the recusal of Public Utility Advisory Board Members. Juan Fuentes, City Manager and Jaime Rubin, City Attorney

City Manager Fuentes said we've heard the presentation. If approved the staff will amend the other boards with the similar language.

Commissioner Clark was a stand-alone no on the last vote and wanted to explain. One thing was it says the Public Utility Advisory Board and doesn't include the Impact Fee Board. She also has a problem with this not being a broad spectrum for all boards. Third, she likes Mr. Pacourek's comments on these boards don't make a decision, the Commission does. She feels that because it was a targeted board for an undisclosed reason, she feels it should be all boards and not just one.

Commissioner Frankel feels we staff these boards with the best people we can. He would like to think we could count on them and their own moral compass to recuse themselves. It boggles him that we would stifle these people from speaking their mind.

Mayor Pro-Tem Whitehead also feels that when we know there is a conflict, we should do that. We put these boards in place as an Advisory Board and she had concerns about that also.

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Mayor Green thinks they all know how he feels about volunteerism. He has seen issues discussed with a clear conflict and they did not recuse themselves. There's a difference about sharing that knowledge and pushing it on someone. When this was originally brought up, he doesn't want to see this defeated, he suggested that we postpone this vote and have an ordinance that would be all inclusive and all-encompassing of each board. He asked City Attorney Rubin if we can do that. City Attorney Rubin said if you're talking about revising the ordinance to come back, he feels they will have to start over.

City Manager Fuentes added it was done by the Rules of Procedure for the Commission and he feels when there is a clear conflict of interest, it would help. This does not mean the member cannot participate in the conversation.

City Attorney Rubin added you would want this to give guidance. Mayor Green asked if he was to make a motion and nobody seconded, this item would die for the lack of a section. City Attorney Rubin stated it would not keep him from drafting a new ordinance.

Commissioner Clark said these boards don't make decisions and at the end of the day the Commission makes the decision.

Mayor Green said point is well taken but he will disagree with her. If someone has a true conflict of interest and they participate, they can influence the outcome. What we are trying to do is create an environment where everyone understands the rules of engagement and when it is and is not appropriate to participate.

Further discussion was held about drafting a new ordinance to include all boards.

Commissioner Hechler read the governmental conduct act and it gives examples and we should ask them to recuse themselves and the Act gives that authority.

Mayor Green called for a motion. There being no motion, the ordinance died for lack of a motion.

3. Discussion/Action: Ordinance No. 688 for publication amending Section 3-6(a) pertaining to sale of animals on public property. Jaime Rubin, City Attorney

City Attorney Rubin presented and read the proposed ordinance.

Commissioner Frankel shared a little story of Lake Quemado of Anglers bringing in goldfish to the lake and it took over the lake and they had to bring in another fish the Tiger Muskee to eat them. But this could be a potential problem with the lake and the river.

Commissioner Hechler asked for the history of this. City Manager Fuentes responded for the last 18 years one of the events have given a goldfish as a prize and if it's going to be allowed it needs to be amended and if it's not, then it should not be allowed.

Commissioner Clark raises fish and started years ago and knows there are two fish that are treated inhumanely, one is the beta fish and one is the goldfish. If she were to give away something to the kid the parents got to take care of, we can do it differently. There's a better gift that can be given and she wouldn't take one home if it doesn't have its own tank.

Mayor Green said he will never look at a goldfish the same again. He is glad and proud of his fellow Commissioner's.

Commissioner Hechler moved to disapprove Ordinance No. 688 for publication amending Section 3-6(a) pertaining to sale of animals on public property. Commissioner Clark seconded the motion. Motion carried unanimously.

4. Discussion/Action: Resolution No. 07 17/18 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for Water Distribution Mainline Reconstruction. Traci Burnette, Grant/Projects Coordinator

Grant/Projects Coordinator Burnette presented this item. This is the area they feel is the most important to proceed with funding.

Commissioner Hechler asked what the match would be. Grant/Projects Coordinator Burnette responded it depends on the information that is presented. Once they award the grant we will find out.

Commissioner Clark moved to approve Resolution No. 07 17/18 authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority Water Trust Board for Water Distribution Mainline Reconstruction. Commissioner Frankel seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Resolution No. 08 17/18 designating the Retention and Disposition Schedules and the method of destruction for the Records for the City of Truth or Consequences. Renee Cantin, Clerk-Treasurer

City Clerk Cantin presented the item. The current Resolution designating which retention schedules will be used needs to be updated. We are working diligently with all departments to do the proper destruction of records which has not been done since the 90's. The changes in the Resolution would allow the Clerk-Treasurer to select which retention schedules will be used in the process of destruction. Although Municipalities are not required to use them, Clerk Cantin currently has recommended the NMAC Retention Schedules prior to the amendment which was done in October of 2015 which repealed some of the schedules used by municipalities. The NM Clerk's & Finance Officers

Association is also working on an overall retention schedule for municipalities which could be done as early as November. Clerk Cantin will be serving on this committee to be sure the best retention is included and they will need to be adopted by each municipality once completed. Therefore, we are asking the Commission to approve allowing the Clerk-Treasurer to select the Retention Schedule that is used for the City of T or C.

In addition to the retention schedules that are used, we are requesting the Commission to allow the Clerk-Treasurer to proceed with using the destruction methods listed in the Resolution so it will give us flexibility to use the most cost effective method we can for destruction.

Commissioner Clark asked if someone has access to the records when you bury them. Clerk-Treasurer Cantin responded and explained the process for burying records. We would do that with a smaller batch, not 336 boxes. You would not bury boxes with any personally identifiable information. Commissioner Clark says it would seem like an awful lot of labor to go through each of the boxes. Clerk-Treasurer Cantin agreed.

Mayor Pro-Tem Whitehead moved to approve Resolution No. 08 17/18 designating the Retention and Disposition Schedules and the method of destruction for the Records for the City of Truth or Consequences. Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Request for a Variance on Space #28 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Applicants are Jake Skinner and Jeremy Peck. Traci Burnette, Grant/Projects Coordinator

Item will be brought back to the next meeting.

7. Discussion/Action: Request for a Variance on Space #11 to be closer than 15' apart at Winter Haven Mobile Home Park 2335 Broadway St., Truth or Consequences, NM. Applicants are Jake Skinner and Jeremy Peck. Traci Burnette, Grant/Projects Coordinator

Item will be brought back to the next meeting.

H. NEW BUSINESS

1. Discussion/Action: Public Arts Advisory Board Appointment. Renee Cantin, Clerk-Treasurer

Clerk-Treasurer Cantin reported the Public Arts Board had a vacancy and we published the vacancies and they are recommending approval of Mr. Underwood to their board.

Commissioner Clark moved to approve Andy Underwood to fill the vacancy in the Public Arts Board. Mayor Pro-Tem Whitehead seconded the motion. Motion carried unanimously.

2. Discussion/Action: Joint Powers Agreement (JPA) with Sierra County and Elephant Butte for Minimum Pool Bid. Juan Fuentes, City Manager

City Manager Fuentes presented the item and previously we have discussed the joint effort on the part of the entities. There is no monetary funding needed for this JPA, any financial obligations would have to come back to the Commission for approval.

Mayor Green added at some point when this JPA is approved we will need someone from the Commission or a designee to serve on that board.

Mayor Green moved to approve Joint Powers Agreement (JPA) with Sierra County and Elephant Butte for Minimum Pool Bid. Mayor Green seconded the motion. Motion carried unanimously.

3. Discussion/Action: Approval of the Records Inventory List for destruction. Renee Cantin, Clerk-Treasurer

Clerk-Treasurer Cantin said as mentioned earlier we are well on our way for the proper destruction of records for the city. The attached list for 2016 which was logged in last year has 49 boxes, and the 2017 list which consists mostly of Finance, Payroll, & Utilities boxes has 287 boxes. We are requesting approval of the list to proceed with destruction. The list has also been sent to the City Attorney for review to make sure there are not any documents we may need to hold for legal purposes. As far as the procedure for destruction, the Finance Director has a contact with State Records Center and Archives who might be able to help us destroy too. We are looking at that and will need a budget adjustment for the cost to proceed with destruction. She failed to add she is not the only Custodian of Records in the city per our City Code. The Police Chief is for the Police Department and the Municipal Judge is for the Municipal Court. We have all been working very closely and she has been training each Department on how to do the records. She stands for any questions.

Mayor Green asked if she has spoken to the Police Chief or the Judge to see if they will have any money to help with the cost of the destruction. Clerk-Treasurer Cantin responded they have discussed it and they are willing, but this is strictly Finance Records. She foresees having another destruction within another month or two. Mayor Green asked if it would not serve us better financially if we would destroy all of them at one time. Clerk-Treasurer Cantin responded it absolutely does and we are definitely looking into that. City Manager Fuentes wanted to commend the Finance and Clerk's Office. Sometimes when you do a destruction other departments can bog down the process. If you go to Finance you can see where they have boxes and boxes stacked and ready to go.

Mayor Pro-Tem Whitehead mentioned there is a company called Shred-it and they previously shared the expense with the Clerk's Office and it was inexpensive for them. It's something we could look into once we get rid of the big volume of records, we could share the cost. Clerk-Treasurer Cantin responded it definitely is a great idea for cost sharing. We could put the item on the Consent Agenda. City Manager Fuentes added some of the records will have to be approved. Commissioner Clark asked if we still microfiche everything and can Clerk-Treasurer Cantin assure her we won't have bank statements put into the landfill. Clerk-Treasurer Cantin responded yes and yes to her questions.

Mayor Pro-Tem Whitehead moved to approve the Records Inventory List for destruction. Commissioner Hechler seconded the motion. Motion carried unanimously.

I. REPORTS

a. City Manager

- 1) At 1:00 p.m. there is a continuance of the Sierra Vista Hospital Governing Board meeting. They asked the Clerk to Post a PQN.
- 2) Tomorrow there will be the Spaceport Legislative Meeting from 9:00 a.m. – 3:00 p.m. Last week had a forum on the potential impact of the Spaceport. It was well attended by a diverse group and was very informative and will eventually be published on KRWG and the website.
- 3) Did get \$150,000 for Fuel Farm, phase 3, so that project should be finalized next year and has been in the works for a number of years.

b. City Attorney

- 1) He explained the process that has been followed for the foreclosures on some property he has been working on. Foreclosing the liens on Sept 28, at 10:00 for 808 Maple and the other property will be 309 Birch St. on October 19th at 10:00 a.m. He wanted everyone to be aware.

c. City Commission

Commissioner Hechler reminded everyone who has an iPhone or Android to download the free Sierra County App. It has wonderful information, including maps, restaurants, etc.

Commissioner Clark asked if a PQN was posted for the F-16 meeting today. City Clerk Cantin confirmed it has.

Mayor Green announced the public hearing for tonight. It's not going to be a presentation, this is a listening tour and if you have concerns this is your opportunity to express them.

2) September 27th meeting will be changed to 1:00 p.m. because he and City Manager Fuentes have their day in court at 9:00 a.m. He apologized to everyone for the short notice in scheduling.

3) In relationship to Mr. Fenn's comments, he did get information that a new tour provider has been selected. They are looking at starting the weekend of October 28th and in relationship to the name, this might be a dba for an existing corporation which he believes it is. He would like to have the authority since they voted on this from the Commission to thank the citizens for being patient and having some faith in the Commissioners while the Spaceport was finding a tour provider. The choices are limited and you have to find the right people. He is glad they did their due diligence to select the right company.

4) Thanked the group of people who took it upon themselves to gather goods and drove a truck down to Houston. We should be publishing our weather and keep it in our dialog. It's unfortunate that it takes a disaster to restore our faith in humanity, but we'll take it how we can get it. Our great weather should be part of our advertising.

J. EXECUTIVE SESSION

1. Threatened or Pending Litigation (Hot Springs Land Development) *Pursuant to 10-15-1(H.7)*
2. Threatened or Pending Litigation (Ron Fenn) *Pursuant to 10-15-1(H.7)*
3. Limited Personnel Matters (City Manager) *Pursuant to 10-15-1(H.2)*

Mayor Pro-Tem Whitehead moved to approve going into executive session at 11:32 a.m. to discuss Threatened or Pending Litigation (Hot Springs Land Development) *Pursuant to 10-15-1(H.7)*; Threatened or Pending Litigation (Ron Fenn) *Pursuant to 10-15-1(H.7)*; and Limited Personnel Matters (City Manager) *Pursuant to 10-15-1(H.2)*. Commissioner Hechler seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Green reconvened the meeting in open session at 1:25 p.m.

Mayor Pro-Tem Whitehead certified that only matters pertaining to Threatened or Pending Litigation (Hot Springs Land Development) *Pursuant to 10-15-1(H.7)*; Threatened or Pending Litigation (Ron Fenn) *Pursuant to 10-15-1(H.7)*; and Limited Personnel Matters (City Manager) *Pursuant to 10-15-1(H.2)* was discussed in Executive Session and no action was taken.

K. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.

Commissioner Hechler moved to approve to authorize staff and Legal to move ahead with letter to Mr. Fenn and to further amend MOU with Geronimo Trails Scenic Byways. Commissioner Clark seconded the motion. Motion carried unanimously.

L. ADJOURNMENT

Meeting was adjourned at 1:27 p.m.

CITY COMMISSION SEPTEMBER 13, 2017 REGULAR MEETING MINUTES

Passed and Approved this ____ day of _____, 2017.

Steven Green, Mayor

ATTEST:

Reneé L. Cantin, CMC, City Clerk



E.2

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

Approve the minutes of the Public Utility Advisory Board for July 17, 2017.

BACKGROUND:

None.

STAFF RECOMMENDATION:

Approve the minutes.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017

**CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MONDAY, JULY 17, 2017**

REGULAR MEETING

Action Minutes

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, July 17, 2017 at 5:30 P.M.

INTRODUCTION:

PRESENT:

George Szigeti, Chairman
Jeff Dornbusch, Vice-Chairman
Ron Pacourek, Member
Gil Avelar, Member – Arrived @ 5:36 P.M.
Randy Ashbaugh, Member

ALSO PRESENT:

Juan Fuentes, City Manager
Scott Griffith, YESCO
Alex Montano, YESCO
Robbie Travis, Building Inspector
Melissa Torres, Finance Director
Bo Easley, Electric Division Director
Arnie Castaneda, Water/Wastewater Department Supervisor
Traci Burnette, Grant Project Coordinator
Sonya Williams, Utility Office Manager
Tammy Gardner, Electric Division Administrative Assistant
Angela A. Torres, Deputy City Clerk

APPROVAL OF AGENDA:

Klaus Wittern - It is his understanding that the board was handed a document that is not in the public record at this moment, but it is in your hands. He feels the public has a right to know what the board is reviewing. He requested that the Chairman rule that he be provided a copy of the document, and be given 15 minutes to review it.

City Manager Fuentes- That is not on the agenda. It is a record that can be made available, but the information is for the board members to review and consider. Therefore, he would recommend that we proceed forward.

Chairman Szigeti- He would have to agree with that. We are here for discussion only. There is not going to be any action taken. He knows he will need more time to review this document as well.

Vice Chairman Dornbusch moved approval of the agenda.

Member Pacourek seconded the motion. Motion carried unanimously.

APPROVAL OF MINUTES:

Regular meeting of Monday, June 19, 2017:

Chairman Szigeti– Prior to the meeting passed along a few editorial comments to Deputy Clerk Torres.

Vice Chairman Dornbusch moved approval of the June 19, 2017 minutes with the changes made.

Member Pacourek seconded the motion. Motion carried unanimously.

COMMENTS FROM THE PUBLIC:

Klaus Wittern – It is very difficult to comment on an agenda that is incomplete because the packet was selectively omitted. He reserves the right to comment on the presentation and it not to be counted against his 3 minutes.

RESPONSE TO COMMENTS FROM THE PUBLIC:

There was no response to the public.

Discussion/Update: Sanitation Department – Andy Alvarez, Sanitation Director:

There was no update for the Sanitation Department at this time.

Discussion/Update: Electric Department - Bo Easley, Electric Division Director:

Electric Department Director Bo Easley reported the following:

- ⑦ The Tesla project has been completed.

- ② He will meet with the Hospital tomorrow to discuss the groundbreaking.
- ② The High School Fitness Center project will start in the late part of August, and they will be building a 3 phase line.
- ② Contractors are currently working on the Animal Shelter by the Armory.
- ② They have been replacing poles around town.

Member Avelar - Asked if they have been replacing anchors.

Bo Easley – Yes, and he has also been meeting with the cable company and Windstream to have them also replace their anchors.

Vice Chairman Dornbusch – Asked if the testing for the poles has been approved, and do we have a good supply of poles.

Bo Easley – Yes, we have been approved, and we have plenty of stock.

Discussion/Update: Water/Wastewater Department - Jesus Salayandia, Water/Wastewater Director:

Water/Wastewater Supervisor Arnie Castaneda reported the following:

- ② They planned on having well #7 back up last week but they fell into a couple of snags. Hopefully they will get it back on line this week. Right now we are only getting about 450 gallons per minute. It was incrustated with lots of iron bacteria, and if we continue to scrub the bottom of that casing we are going to wear it down so thin that it will become useless.
- ② The blowers at the Treatment Plant have been repaired and/or modified.
- ② They have a meeting with Smith Engineering at the Wastewater Treatment Plant on Wednesday at 10 a.m. to discuss ongoing projects.
- ② They did some work on the Cook Street booster pumps. They finally got the second pump up and running, so now both pumps are up and running.
- ② They have a pressure reducing valve on Pershing Street that has been giving them some problems and it affects the pressure on some of the lower zones in town. They are working on it, and trying to maybe find a repair kit for it. They don't want to replace the whole valve quite yet because the cost of that will be anywhere from \$10,000 to \$12,000.

Discussion/Action: Automated Meter Reading Project for Electric and Water System - Yearout Energy Services Company:

Mr. Griffin reviewed the Automated Meter Reading Project for Electric and Water System which included:

- ② The project description
- ② Water/Sewer Utility
- ② Baseline Utility Data
- ② Meter Project

- ❑ Pre-Retrofit Measurement and Verification
- ❑ Revenue & Cost Savings
- ❑ Retrofit
- ❑ Economic Analysis
- ❑ Customer Responsibilities
- ❑ Leak Detection Program

Chairman Szigeti – The flow ratings in our packets don't agree with yours.

Scott Griffith – The document we provided you with today has the actual information. We had to change some of the data based upon some of the final information they received.

Member Avelar- You mentioned that the Electric Department would be able to shut down the system? He thought that this was just going to be meters.

Scott Griffith – The Electric Department will be able to understand what the electric meters are doing. The system will flag problems immediately so you can shut the meters off remotely.

Member Avelar – How often do you think these meters will have to be checked?

Alex Montano – Their plan is to check them annually.

Member Avelar – Will the warranty be up in 20 years?

Alex Montano – Yes, the warranty on the meters is 20 years. However, these meters will have a life span longer than 20 years.

Scott Griffith – These meters will last anywhere from 30-35 years and the batteries have a 10 year warranty.

Member Ashbaugh- Which statute does this fall under?

Scott Griffith- *Section 6-23* which is in the document that was given to you prior to the meeting.

Member Ashbaugh – It would be nice to see more than a \$1 a year savings. You put in all these costs, and based it on our savings, and it just balanced out in our cost on what we are going to save.

Alex Montano- Projects can run anywhere from 10-25 years, and so for what we are trying to do, 20 years is the sweet spot for the cost of capital, and so we try and look at how that is going to run over that savings.

Member Ashbaugh— He understands what you are doing here, but it would be nice if we saved \$100,000 or \$200,000 a year. What is your anticipated upside savings that we are going to have for accuracy, and things like that.

Scott Griffith — Your anticipated upside is not built into those numbers. All of the upside on the commercial meters goes into the pocket of the city.

Member Ashbaugh — You don't have a figure on that.

Scott Griffith- We can certainly provide that.

Member Ashbaugh — It would help him personally to show additional savings as well as any other fees.

Vice Chairman Dornbusch — On your appendix G — Meter Test Results: What are the dates these were read?

Scott Griffith — They had crews out here about 8 months ago.

Vice Chairman Dornbusch — So it was quite a while ago when you did this meter testing. Where did these percentage numbers come from that are on the meter accuracy testing results page. And why were we given this if they are not the same percentages that are in the actual meter analysis. This bothers him because this makes it look like there is going to be a big revenue increase.

Scott Griffith - The information is being constantly gone over, so we gave you the initial numbers that were a broader spectrum, and then we got them down to the exact...

Vice Chairman Dornbusch - These results were done before this was given to us. So why was this even given to us? The meter testing results don't reflect these numbers at all. So where did these numbers come from?

Scott Griffith - If you look at the meter testing results there is a lot of variables that go into this.

Alex Montano — There was a mistake last time if you recall, and it may have not gotten the updated. He transposed the percentage accuracies the wrong direction and he apologized for that the last time. He made an update to the version that got sent out afterwards, but it may have not gotten reflected on the one that was delivered yesterday. However, the numbers have not changed. It was a transposal of numbers going the wrong direction on the paperwork.

Vice Chairman Dornbusch — When you have 46 out of 68 doing better than 97%. What's going on with that?

Scott Griffith — That's because they were newer meters.

Vice Chairman Dornbusch – If we have newer meters, then why not just put newer meters in at \$35 a piece rather than \$130 a piece? Then we'd see a huge revenue increase right away and we wouldn't have to borrow a bunch of money to do it. Are these real meter readings or just fictitious numbers?

Scott Griffith – Those are actually what your meters read.

Alex Montano- A group of them, plus a couple of organizations reviewed the numbers, and they all came up with the same results.

Member Ashbaugh- His main concern is all of the fees, after this is put in. It just needs to be a simple sheet of what it is going to cost over and above, and what they are going to make a payment on. Just make it as simple as possible please.

Chairman Szigeti- Asked that the Water Department breakdown the ages of the meters that are installed and compare that breakdown to this.

Scott Griffith – We have that information on another document.

City Manager Fuentes – Please remember that one of the benefits of this project is that it pays for itself through the savings. We are going to be recovering some revenue whether it is significant or small, there is going to be some revenue gains. There will be some customer service gains also because people will have access to their data. The Utility Office will have one billing cycle and it will be billed from the office, and rather than having two meter readers we may end up having one meter reader. So there are other benefits that we may or may not have. This project has been going on since 2015, and some of the issues we had in the past have been that we've had issues with meter reading. He has personally observed meter readers going in sometimes, lifting the lid and taking off. So whether or not these reading are being done accurately, who knows? So please keep that in mind that there are benefits other than dollar amounts. We are looking at creative ways to see how we could do things differently.

Vice Chairman Dornbusch – He does appreciate all of the benefits that would come with a totally automated system. However, what concerns him is the revenue of replacing meters that are 100% efficient. What is the occupancy rate of this community? How many of these meters are going to go in front of a house that nobody is living in, at how many dollars per meter? It's nice to have good service, but we are a very low income city. He is looking at an increase in his own bill if this goes through, and he can't really afford that. The basis of all of this revenue is going to come from more accurate meters, but when these numbers come up that is giving him pause, it makes him question every other number that comes after this. He would recommend that they look at this, versus the cost of the system being put in, versus the cost of doing it "in house." We may not be able to do it the way they do, but if we pull the meters out that are inefficient, and just replace inefficient meters with new mechanical meters, that would generate the city a ton of revenue without the cost. If these numbers are accurate, then we have a heck of a lot of line loss which means we should be focusing all our money on replacing our mains, ancillary lines, and taps. If our meters water is only losing 5% that means there's 21% going out into the dirt, and he thinks we should address that need first before we start playing with new ways to collect data.

City Manager Fuentes – He understands that, but he doesn't think that your addressing the challenge that staff deals with every day, and not just us as a municipality, every single municipality everywhere. They ask where you found the money to replace that line. And he can tell you that you're not going to find it anywhere for free. There is no free money. We are very fortunate to have a partner like USDA to give us that grant money. But if we didn't have that partner then guess what, we wouldn't have improvements in the Wastewater Treatment Plant and we wouldn't be working on the application for the water side. So yes, he understands that there is a lot of need in the system, and that's why he cringes and has issues when we start talking about reducing rates, because there is so much need. And where is the revenue? This is only being funded by the water side, but on the electric side we'll pay for part of this debt, which means that whatever the electric side pays, that's freeing up additional money for the water side which in turn will go back into the system to make improvements. This is a proposed project and if the Board does not endorse it then it goes to the Commission with no endorsement, and the Commission will decide whether to proceed forward or not.

Member Ashbaugh- They're guaranteeing these numbers, and they will pay if the numbers are wrong but he understands Jeff's concerns because they had a study done, and they said it's going to take \$26 million dollars to upgrade our water system. He wants to know what the fees are, and what they are, over and above our payment for the next 20 years if we do the job.

Arnie Castaneda- He can tell you, as an operator, and being out there looking at these meters, they are older meters. A new meter is 98 % to 99 % accurate, and a majority of the meters that are out there are not.

Vice Chairman Dornbusch - That's why he doesn't think the numbers are accurate.

Member Avelar- Are you using glass as opposed to plastic for the meters. And what is the test criteria they used for 10 to 15 years, as opposed to a couple of years for being able to read through the meters. Even though they will be read remotely, you'll have to go in and check them every once in a while. How often will the test site be?

Scott Griffith – He spoke with the people from ITron and they no longer put glass on electric meters they use a very high quality version of polycarbonate, and they passed all of the standards for the enterprise utility size business.

Ron Pacourek – Had concerns regarding the life of the batteries.

Scott Griffith – The batteries are warrantied full value for 10 years. Because these meters may not be sending the same amount of information, it will flag, and tell you when the battery is low. They have to make sure the useful life of the product lasts beyond the term itself. The warranty for the batteries is 20 years.

Chairman Szigeti – We're going to need some time to look over all of the information.

Scott Griffith – If you have any questions please let them know.

Discussion/Action: Code of Ordinances sec. 14-94-b-1 and sec. 11-14-1 – Ron Pacourek:

Member Pacourek- He believes as a Public Utility Advisory Board it is their responsibility to look at these rates every year. March would be a good time and if there are some rates that need to be changed, they can make that recommendation to the City Commissioners.

City Manager Fuentes- When those ordinances were adopted that was highlighted and it was made very clear that the intent was for it to increase 5% every year in order to stay consistent with the growth. As we mentioned in the past, when we made a presentation to funding agencies, one of the first questions they ask is, have you adjusted your rates to the customer CPI, and a lot of communities fail to do that. So when we did the Wastewater Analysis with USDA, we had a meeting at the Civic Center, and it was presented that they were adjusted. And it was a decision made by the Commission to say that we have to keep adjusting the rates each year, because they are not generating enough revenue in the Wastewater system or on the Water side. On the water side we were talking about the cost of the infrastructure that we need for improvements, and the cost to replace water lines. Right now, we also need a vacuum truck, and the vacuum truck is being split between the Electric and the Water Department. So if we do not continue to provide these departments with that revenue stream to replace some of that equipment, then how are we going to be able to provide that resource? There is no other funding source or grant out there to provide for water line replacements, for staff, equipment, or vehicles. The rates are what are helping fund that.

Member Pacourek – He is not arguing that fact. He is arguing that it is automatic. What is this board for? Shouldn't we be looking at these annually, and discussing whether there should be a change.

Chairman Szigeti– He and Gil have been here longer than other members on this board, and they have heard some of these arguments in the past. Both the rate adjustment and the annual adjustment were all presented to the Utility Board. It was approved by this board, and that recommendation was sent forward to the City Commission for the reasons that the City Commission has outlined. And yes, it is our duty to look at those rates, and if there should come a time when the rate increases go above and beyond what the departments actually need, then it is the duty of this board to recommend making an adjustment to that.

Member Pacourek- The meaning of these two statements that he reads is applied to both the customer charge and the monthly rate. He does not see that. These were not written very well, so it needs to be corrected.

Chairman Szigeti - Does the base monthly charge change increase as well as the cost per unit?

Sonya Williams- Yes, it applies to both.

Member Pacourek- The only part it says in here is "fees" and so this is compounded every year, so where is the sewer and sanitation and how far are they in the red that they have to have this increased every year, both monthly rate and customer charge?

City Manager Fuentes- He can tell you right now that they are not in the red, because we make these adjustments. They are just starting to come out of the red, and they are putting money back into the system with the Wastewater Improvements, and they are looking into doing lift stations so they are putting money back into the system because they are not in the red anymore.

Member Pacourek – Then we need to be looking at these every year and making the adjustments accordingly.

City Manager Fuentes - He understands that is one members opinion, but like he said, he knows that the Commission, along with the endorsement of this previous board made those amendments for automatic increases.

Chairman Szigeti- If you are going to adjust the rates every year, then you will have to go through an ordinance, a public hearing, and the whole 9 yards. It's a cumbersome and tedious process. If you have what you believe to be a reasonable increase in the cost, to put it in the ordinance to put it that way and come back and review it regularly to make sure you are not going overboard with the increases that's fine.

Member Ashbaugh- He likes to simplify things. We could have a review maybe in March, April, and May or even before the budget so we could look at the rates and see how much money the Water, Sewer, and Electric Departments are producing, and what capital expenditures they want to do. We can basically run it like a business, but it does need to be reviewed. A 5% increase may be too much. It's the ordinance right now so we can leave it at 5%, but it should be reviewed.

City Manager Fuentes – With all due respect, this is not a business in the sense that we have really expensive items that we have to take care of, in regards to the Water system, Wastewater and Electric system. We are going into an ICIP process that identifies the study that was done on the water side of \$26 million dollars in improvements that needs to be done. Arnie in Water & Wastewater is looking for a winch truck to be able to pull the pumps. If you have not seen the equipment the employees have, then he really suggests you all look at what they have, because the fees and the revenue that this system is providing. The Wastewater that came out of the red about two or 3 years ago is generating some revenue to be able to buy some of this equipment, but we have lift stations that need to be repaired, sewer lines that need to be replaced, and a hot spring ditch that needs to be fixed. There is a tremendous need for the infrastructure in this City. Anytime that you start reducing that revenue source for the system to be able to replace, we have way too many needs, and that's the only caution he would have. Again that's why a lot of communities do this automatically, because there is never a will to increase.

Chairman Szigeti – A 10% annual increase would probably not be enough to take care of all of the infrastructure needs.

Member Pacourek – That is not what I'm discussing.

Member Ashbaugh- The fees do need to be reviewed, and keep it simple where we could understand it.

Chairman Szigeti – He has no objection with that.

Member Pacourek – He really believes that the meaning of these two statements in the code do not apply to the customer charge. His feeling is for the unit of a 5% increase.

Member Ashbaugh- suggested that the City Attorney review the ordinance.

Member Pacourek- How do we do that?

Chairman Szigeti – We make a request that this be forwarded to the City Attorney for a review on the wording.

City Manager Fuentes – If this board wants to make a recommendation to the Commission then they can certainly do so.

Member Pacourek made a motion for the City Attorney to review the wording of the Code of ordinance, sec. 14-94-b-1 and sec. 11-14-1, and requested that it be more specifically detailed.

Motion seconded by Randy Ashbaugh. Motion carried.

Discussion/Action: Electric Rates - Ron Pacourek:

Member Pacourek – The Electric Department produces something well over \$1 million dollars annually, and he is thinking that if that is doing that well, then maybe we ought to be reducing that rate. That is something we should be doing right for our community, and the people who pay their utility bills every month.

City Manager Fuentes- He understands that. However, please keep in mind of what would be defunded from the General Fund and other sources that the city provides. He thinks that something you fail to recognize is what the Electric Division is funding and supporting. If the other services are not in the other utilities, you will not have enough revenue to support that. The income has to come from somewhere.

Member Ashbaugh– How much are they exactly taking out of the Electric Department and spending in the General Fund, because that is a hidden tax. And with the income levels in this town, that is a very regressive tax.

City Manager Fuentes- He doesn't think the city understands exactly how much the Electric Department covers the rest of the departments, and he thinks if they really knew what the Wastewater, Solid Waste, and Water Departments would have to increase to hold their own, they wouldn't like it what so ever.

Member Pacourek – He feels it's the responsibility of the Public Utility Board to review these rates on an annual basis.

COMMENTS FROM THE BOARD:

There were no additional comments from the Board.

COMMENTS FROM STAFF:


There were no additional comments from staff.

ADJOURNMENT:

There being no further business to come before the Public Utility Advisory Board, George Szigeti, Chairman, declared the meeting adjourned.

APPROVAL:

PASSED AND APPROVED this 21st day of August, 2017, on a motion duly made by **Ron Pacourek**, seconded by **Gil Avelar**, and carried.



George Szigeti, Chairman
Public Utility Advisory Board



E.3

CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM

ITEM:

Approve the minutes of the Public Utility Advisory Board for August 21, 2017.

BACKGROUND:

None.

STAFF RECOMMENDATION:

Approve the minutes.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017

**CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MONDAY, AUGUST 21, 2017**

REGULAR MEETING

(A portion of the audio recording for this meeting was not captured. The portion lost is based on notes taken by Deputy Clerk Torres.)

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, August 21, 2017 at 5:30 P.M.

INTRODUCTION:

PRESENT:

George Szigeti, Chairman
Jeff Dornbusch, Vice-Chairman
Ron Pacourek, Member
Gil Avelar, Member
Randy Ashbaugh, Member

ALSO PRESENT:

Juan Fuentes, City Manager
Scott Griffith, YESCO
Alex Montano, YESCO
Melissa Torres, Finance Director
Bo Easley, Electric Division Director
Jesus Salayandia, Water/Wastewater Director
Ruby Otero-Vallejos- Water/Wastewater Administrative Assistant
Traci Burnette, Grant Project Coordinator
Sonya Williams, Utility Office Manager
Tammy Gardner, Electric Division Administrative Assistant
Angela A. Torres, Deputy City Clerk

APPROVAL OF AGENDA:

Chairman Szigeti called for approval of the agenda.

Member Pacourek moved approval of the agenda.

Vice-Chairman Dornbusch seconded the motion. Motion carried.

APPROVAL OF MINUTES:

Regular meeting of Monday, July 19, 2017:

Chairman Szigeti mentioned a few revisions to the minutes, prior to the meeting.

Member Pacourek moved approval of the July 19, 2017 minutes with changes previously noted by Chairman Szigeti.

Member Avelar seconded the motion. Motion carried unanimously.

COMMENTS FROM THE PUBLIC:

Klaus Wittern – Thanked YESCO for providing the information in a timely matter. He requested permission to speak during or after the YESCO presentation, because he has some questions that need to be addressed.

Chairman Szigeti – We will see once we get into the discussion.

RESPONSE TO COMMENTS FROM THE PUBLIC:

Chairman Szigeti – Mr. Wittern has asked if it would be permissible for him to speak during discussion on the YESCO proposal, and he would like to ask the board of that was a reasonable request.

The board agreed to allow Mr. Wittern, or any other member of the public, to speak after the presentation from YESCO.

City Manager Fuentes - Just for purposes of minute taking and organization, if that option is opened up, then this board sets itself up for allowing the same opportunity in future meetings. Not just for Mr. Wittern, but for anybody coming before the board and asking for the same request. That's why we normally allow public comments at the beginning of the meeting.

Member Ashbaugh – He thinks that they should hear Mr. Wittern's view regarding the presentation, but limit it to 3 minutes. He doesn't believe that they are setting a precedent because this is a very large expenditure.

Chairman Szigeti – On this occasion they will allow Mr. Wittern's input, and in the future they can make the exception to allow public comment during discussion, but it would have to be decided by the board prior to the meeting.

Discussion/Update: Sanitation Department – Andy Alvarez, Sanitation Director:

Sanitation Department Director Andy Alvarez reported the following:

- They had several commercial dumpsters that were overflowing down town and he believes that most of it had to do with illegal dumping. If any member of the public should see illegal dumping to please report it to the city. He has been driving around alleys and such, looking for any illegal dumping. The alleys have been clear of mattresses, chairs, and stuff like that, but they look bad because of the vegetation. His large trucks used to go through the alleys and knock down the weeds, but it is the responsibility of the household owners to keep the half of the easement and half of the alley clean.
- He has been working on refurbishing dumpsters around town so that they look nice.

Chairman Szigeti asked if he is still looking for a Deputy Sanitation Director.

Andy Alvarez- Yes, the position is still open.

Member Avelar – Can commercial dumpsters be locked?

Andy Alvarez – They have some commercial dumpsters that have locks on them and the owner will lock and unlock for them on trash day. The city will provide the chain and the hasp, but the owners will need to provide their own deadbolt.

Member Ashbaugh – At his store in Williamsburg, they have the chain and lock, and they keep it locked. Otherwise, they would not be able to get their own trash in the dumpsters. He suggested that Mr. Alvarez go and see businesses that have several dumpsters to see if they will let you weld on the chains and put on locks. He thinks that would help considerably to discourage people from coming in to town, and throw stuff in the commercial dumpsters. And as far as the alleys, he has requested for the city to grade the alleys for 3 plus years. They used to grade them every 6 months. One of his workers mowed Marie Street, and there were 3 desert willows trees growing in it. He asked for some cooperation with the city.

Member Pacourek - He noticed that there are people coming in from outside of the city, and using the dumpsters. He would like to get pictures of that. He suggested that Mr. Alvarez go around and take pictures. Then maybe they can get the newspaper to print the pictures and explain what's acceptable and what is not acceptable. From his understanding, if the lid is not shut on the Polycarts when the truck driver comes, then they shouldn't pick it up.

Andy Alvarez – That is correct sir.

Member Pacourek – Where he comes from, they had Polycarts, and if the lid wasn't shut then they would leave you a note saying that they weren't going to pick up your trash, and if it wasn't closed next time you would have to decide what to do with your trash. It just takes training for these people. It may cost some money to do so, and the truck driver may have to get out and put a sticker on their dumpster/Polycart, and not pick it up, but that's the only way people are going to learn.

Andy Alvarez – That is a good thought.

Vice Chairman Dornbusch – A lot of the overflowing dumpsters are probably people who don't recycle. Are we moving forward with getting a single stream recycling program?

Andy Alvarez – That is something we are looking into. They need to look at some grants to cover Blue Polycarts, because they are \$65 each. However, he is not going to force that on everyone. It will be available to those who want to recycle. We could maybe work something out with the rate of trash on the recycling part. But that service goes into effect, then we are looking at 3200-3500 Polycarts at \$65 apiece, and then he is also looking at a Polycart Truck at \$250,000 plus they would need to hire another employee to drive the Polycart truck. He would also need to extend the facility, and add new sorting equipment.

Discussion/Update: Electric Department - Bo Easley, Electric Division Director:

Electric Department Director Bo Easley reported the following:

- This coming Wednesday, they will be 80% complete with the Hospital Project. The underground wire pulled was pulled last week.
- Hopefully by the end of this month they will start working on the High School Fitness Center Building.
- Construction is in progress for the new Animal Shelter.
- They received 3 quotes from engineers for the Camino Cielo Vista Subdivision. The engineer will be onsite the 29th of this month to go over the project and replace the primary underground and transformers.
- They will soon be doing inspections on 150 poles in the downtown area as well as on Riverside.

Discussion/Update: Water/Wastewater Department - Jesus Salayandia, Water/Wastewater Director:

Water/Wastewater Director Jesus Salayandia reported the following:

- Due to water breaks, and meter leaks, they have had 46 after hour calls this month alone.
- Well #7 has been cleared up. However, they took three Bac-T samples, and none of them passed, so they are going to re-chlorinate, and flush it out. Hopefully that will help. They plan to get it back online if the testing passes.
- They received a few cost estimates for well #8 which came out to \$15,000 to \$20,000 to clean it out, and \$50,000 to replace the well.
- Well #4 should be up soon and the Cook Street Booster is up and running 100%.
- The two lift stations in Williamsburg and Clancy are in.
- They have been averaging a little over 350,000 gallons of effluent (re-use) water.
- He is currently looking for funding to repair wells.

Discussion/Action: Automated Meter Reading Project for Electric and Water System - Yearout Energy Services Company:

Mr. Griffith - Introduced Alex Montano, YESCO Project Director, as well as additional members working on the YESCO project.

Mr. Griffith explained that they assembled the questions the board had from the previous meeting which will be addressed by Alex Montano.

Alex Montano reviewed the Automated Meter Reading Project for Electric and Water System which included:

- Average age of meters
- Summary of annual fees
- IGA – Baseline Meter Accuracy Testing Results
- IGA- Percent of total volume per flow rate
- Estimated Additional Benefits Summary
- Preliminary Project Pro-Forma
- Improved customer service
- Improved Operations
- Leak Detection
- Outage Detection and Restoration

Member Ashbaugh- The average age for meter productivity is 20.7 years. When Vice Chair Jeff Dornbusch looked through the meters that were tested a lot of them tested at 97% and 98% accurate even though they were old meters.

Alex Montano – The low flow test results for all of the three meter sizes tested came out to 52%, 60% and 78% average. The medium flow tests showed 96%, 89% and 91% average. The high flow test showed 94%, 91% and 92% average. Yes, there are meters that tested 97%, 98% and 99% and those would be at the higher flow. So regardless if you have mechanical displacement type meters; meters do not tend to fail in accuracy at higher flow rates. The primary points of failure for meters are low flow and medium flow meters. For a 3 ¼ inch, 1 inch and 2 inch, 20% of the flow at low flow is 65% which comes out to 85% of the total flow through the meters that are at the lower accuracy flow rates. That's what's driving the improvement in revenue.

Vice-Chairman Dornbusch – The low flow testing that you did at 1 quart a minute is right at the threshold of these meters operation. So when you add the 51% number in there, what you're not telling us is that you're doing it at a flow rate that the meters will not operate on anyway. His understanding in the meter field is that a low flow rate should be 1 gallon a minute, or 2 gallons a minute. And the flow rate of .25 gallons a minute is pushing the meters ability to the point to where it isn't going to work, and it reflects that in your data.

The second problem he has is that these numbers were given to them on the 13th. He asked if these were the correct numbers, and he was told that they were. Then later on he was told that there was a mistake made. So where is all of this revenue going to be generated by replacing our meters? He is beginning to wonder if this is just bait & switch to sell us a communication system.

Alex Montano - All of their testing is done to AWWA standards. They do not define the rates at which they test. Those are industry standards, independent of them, and they are there for a reason being that most of the flow through these meters is at those flow rates. So if a 20 year old mechanical displacement meter does not operate well, then that's opportunity for you guys and for us to do a project.

Vice- Chairman Dornbusch – His concern is that you choose a low flow rate which is right at the threshold of operations for these meters. If you were to take a brand new meter and start running it and run it down to a quart a minute, even a brand new one may not operate at that low of flow rate because there is not enough pressure differential through the meter to make it work. These readings are not an accurate reflection of our low flow rate.

Alex Montano – A quart a minute is the standard test flow.

Member Ashbaugh – Using your own figures 80% of the water flowing through the meters is like 94% or more accurate according to your numbers correct? Only 20% low flow which you estimate as 20% is not very accurate. He asked the Finance Department what are the total gross sales of water for a year? Let's take the gross water sales and take 5% if we are going to gain 5% accuracy.

Sonya Williams – The cost per 1000 gallons is around \$2.00.

Member Pacourek – He noticed that the calculations are based on the sewer rate increasing 5% forever. That compounds every year because you add 5% annually. He has a feeling that someday down the road, there is not going to be a 5% increase on the sewer, but you base the numbers on that also.

Alex Montano – The calculation is based on 3% escalation on the sewer. That is the potential additional benefit to the city because the city has already agreed to increase their rate by 5% annually on sewer. The calculation that we ran, was ran at 3% for that very reason, and that you may not continue to increase that at 5% annually.

Member Ashbaugh – If his figures are right, we are talking about \$800 at max, a year, in water.

City Manager Fuentes – As Far as revenue from the water side it is more than that.

Member Ashbaugh – How do we verify after the new meters are in that we are saving all this money.

Alex Montano – That's part of what measurement verification entails. Your questions on how do you trust us, how do we trust that, ultimately we owe you the difference if it doesn't meet the achieved accuracy. This analysis was independently done by three separate engineers, and we came to the same results.

Member Pacourek – He feels that this is just an automated system that we're buying, and we're not really saving anything on water. He would like to know where all of that water that we are losing is going.

Vice Chairman Dornbusch – With these accuracies of the meters that are existing now, he really doesn't see the need to replace our meters. He needs to find out where that 21% of the water is going that's going missing, because we are missing 26%. We're only inaccurate on our meters by 5% at best, but that's still not going to cover that missing amount of water. He feels that the city should be focusing its resources and revenue on replacing the failing infrastructure in this city.

Member Ashbaugh – He believes a lot of the water we're missing in our system, in the down town area, is because we are floating on water anyway, and he believes that is something we need to address.

City Manager Fuentes – He hears this thing about replacing and fixing infrastructure, but how do you do that if you do not have the revenue sources to do so. Right now staff is working very hard to fill out an application to the Water Trust Board for the Cook Pump Station, and that is moving forward. I think we need to remember how this project came about, and that we have been working on it for probably going on 2 years. Some of the things that led to this project were issues regarding the loss of water. Where is that water that we are losing? We don't know because we don't have the technology to track that. So with the loss of water, there is loss of revenue in the Water and Wastewater system, because we are not charging for that. There is also a safety issue for staff.

If you remember the presentation where Mr. Easley and staff were coming to the City Commission and this board and showing us the number of keys that we have to use, as well as going through these obstacle courses of customers who have fences. When he talked to one of our meter readers in the Electric Department, he said that the biggest safety issue for him is getting bitten by dogs. He's been bitten 6 times. That's a concern. The other thing is customer service. We are not the only community doing this. Whether it is the City of Roswell, Albuquerque, El Paso, or Las Cruces, this is something that is now getting us caught up to the 21st century. We're still in the old fashioned way of meter readings and there are better ways to do it which is more efficient, and provides better customer service which in turn increases our revenue stream by being able to save in the losses and that's part of the savings.

Member Ashbaugh – He doesn't believe that we are going to be saving that much money.

City Manager Fuentes – The City did fund, and the Public Utility Advisory Board did agree to fund a \$53,000 study which is what they did. They did an investment grade audit that will be adopted and meets the State standards so now they are presenting their presentation. In looking at what the electric share is and the water, you are looking at almost a 60/40 split. 60% belongs to the water and 40% belongs to the electric. Obviously the way this project is being presented all of the funding comes from the water side, and it works, but that doesn't mean that all of the \$261,000 payment is going to come from water. 40% will come from the electric fund. So if the payment of 40% belongs to the electric fund then that comes out to be around \$104,000 which means that even though this project is being funded by the savings in the water side, 40% of that is going to be paid by the electric because part of the project is electric. The City Commission and the Public Utility Advisory Board said we need to fix our infrastructure because we have water lines that need to be fixed. Well, these are the tools that we are trying to give staff to be able to have resources, revenue, to fix the waterlines and to be able to identify where those leaks are. Right now these guys are struggling out there, and unless somebody from this board, or even anybody in the public saying here's the revenue stream, here's the money where you can find it, by all means please share with us because we just can't find it.

Member Ashbaugh- The payment is roughly \$30,000 a month for the finance part correct? Then you add \$160,000 a year, that's not 40% of the \$260,000. The \$260,000 is only the 59.4% and that's the point he was making, it's not 59% of the \$260,000. We're going to roughly spend over 25% of our income and so the income is going to have to go up to the 1.16 million dollars to make the payments and the fees.

Alex Montano – Your revenue and operational savings will always exceed your debt service.

Member Ashbaugh – There is something wrong in the numbers.

Scott Griffin – One of the issues we go into on this audit is when we started looking at water efficiency, there were problems with your billing in your electric side, and we got a request to ask if we could incorporate the electric side into the water study. So we did, and in that process you had a line study

done with your electric side and one of the issues that study showed is that they did not have good billing to be able to take a look at what the needs were. So Smith Engineering came up with the idea of having to double your rates for the next 10 years to pay for any infrastructure problems that were out there including the cost of the meters. So through this 2 year process we have had funded studies that you got from Smith Engineering which we've used, we used the TD study which is for the electric line loss, and we took a look at all of it and we are trying to figure out how to fund the project because there is no money to do it.

Vice Chairman Dornbusch made motion to not recommend the Automated Meter Reading Project to the City Commission.

Motion seconded by Member Ashbaugh.

George Szigeti, Chairman – Voted nay
Jeff Dornbusch, Vice-Chairman – voted aye
Ron Pacourek, Member – voted nay
Gil Avelar, Member – voted nay
Randy Ashbaugh, Member – voted aye

Motion failed by a vote of 2 to 3.

Ron Pacourek made a motion to forward the Automated Meter Reading Project to the City Commission with reservations and the stipulation that the "guarantees" on the contract be reviewed by the City Attorney.

Motion seconded by Member Avelar.

Brief discussion ensued regarding the motion made by Member Pacourek.

George Szigeti, Chairman – voted aye
Jeff Dornbusch, Vice-Chairman – voted nay
Ron Pacourek, Member – voted aye
Gil Avelar, Member – voted aye
Randy Ashbaugh, Member – voted nay

Motion carried with a 3 to 2 vote.

COMMENTS FROM THE BOARD:

Audio not captured.

COMMENTS FROM STAFF:


There were no additional comments from staff.

ADJOURNMENT:

There being no further business to come before the Public Utility Advisory Board, George Szigeti, Chairman, declared the meeting adjourned.

APPROVAL:

PASSED AND APPROVED this 18th day of September, 2017, on a motion duly made by Bonifacorek, seconded by Jeff Dornbusch and carried.


George Szigeti, Chairman
Public Utility Advisory Board



CITY OF TRUTH OR CONSEQUENCES
CITY MANAGER'S OFFICE
505 SIMS STREET
TRUTH OR CONSEQUENCES, NEW MEXICO 87901
PHONE: (575) 894-6673 EXT 320 FAX: (575) 894-6690

E.4

COMMISSION ACTION FORM

ITEM:

Public Arts Advisory Board Minutes for August 21, 2017

PURPOSE OF ACTION:

Approval of Minutes

BACKGROUND:

Minutes were approved by the Public Arts Advisory Board at their September 18, 2017 meeting.

OPTION/ALTERNATIVES:

Not Applicable

STAFF RECOMMENDATION:

Respectfully request approval.

Name of Drafter: Linda Sparks	Department: City Manager's Office	Meeting: 9/27/17
E-mail: lsparks@torcnm.org	Phone: 575-894-6673 Ext. 320	



City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

Phone: 575-894-6673 Fax: 575-894-6690

PUBLIC ARTS ADVISORY BOARD SPECIAL MEETING AGENDA

September 18, 2017

4:00 P.M.

**Administration Annex
401 McAdoo Street**

ROLL CALL:

Sid Bryan, Tourism
Eduardo Alicea, Art Representative
Cary "Jagger" Gustin, Sierra Arts Council
Andy Underwood, Business Community
Juan Fuentes, City Manager

A. UPDATE ON BOARD APPOINTMENT

1) Andy Underwood, Appointment Approved by City Commission

B. APPROVAL OF MINUTES

1) August 21, 2017 Meeting

C. COMMENTS FROM THE PUBLIC

D. UPDATE ON ART PARK

E. FYE 2018 RODEO ARENA ART PROJECT

F. COMMENTS FROM THE PUBLIC ARTS ADVISORY BOARD

G. SET TIME, PLACE AND DATE FOR NEXT MEETING

(Meets quarterly on the 3rd Monday of the month at 4:00 PM)

H. ADJOURN



City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

City: (575) 894-6673 • FAX: (575) 894-0363

PUBLIC NOTICE

PUBLIC ARTS ADVISORY BOARD

NOTICE OF SPECIAL MEETING

NOTICE is hereby given that the Truth or Consequences Public Arts Advisory Board will hold a meeting on Monday, September 18, 2017, at 4:00 P.M. in the Administration Annex Conference Room at 401 McAdoo Street, Truth or Consequences, New Mexico.

/s/

Linda Sparks

City of Truth or Consequences

575-894-6673, Ext. 320

Posted: 9/14/17

City Clerk's Office

City Website

Sierra County Administrative Building – Date Street

Bank of the Southwest

Post Office – Main Street

Post Office – Date Street



CITY OF TRUTH OR CONSEQUENCES
CITY MANAGER'S OFFICE
505 SIMS STREET
TRUTH OR CONSEQUENCES, NEW MEXICO 87901
PHONE: (575) 894-6673 EXT 320 FAX: (575) 894-0363

COMMISSION ACTION FORM

ITEM:

Public Art Advisory Board Application/Appointment

1) Andy Underwood

PURPOSE OF ACTION:

Review and Approval

**City Commission endorsed
appointment on 9/13/17.
9/13/17 agenda is attached
as supporting document.
L. Sparks**

BACKGROUND:

Andy Underwood will replace Jia Apple who resigned from the Board on 6/21/17. Jia represented the business community on the Board. The Board approved Mr. Underwood's appointment at its 8/21/17 meeting.

STAFF RECOMMENDATION:

None

SUPPORT INFORMATION:

Application & Bio from Applicant's Website

Name of Drafter: Renee Cantin	Department: City Clerk's Office	Meeting: 6/28/17 9/13/17
E-mail: rcantin@torcnm.org	Phone: 575-894-6673 Ext. 304	

Steven Green
Mayor

Sandra Whitehead
Mayor Pro-Tem

Kathy Clark
Commissioner



Rolf Hechler
Commissioner

Joshua Frankel
Commissioner

Juan A. Fuentes
City Manager

505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-0363
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REGULAR MEETING

THE REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO, IS TO BE HELD IN THE COMMISSION CHAMBERS, 405 W. 3RD ST., ON WEDNESDAY, SEPTEMBER 13, 2017; TO START AT 9:00 A.M.

A. CALL TO ORDER

B. INTRODUCTION

1. ROLL CALL

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

2. SILENT MEDITATION

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF AGENDA

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

D. RESPONSE TO PUBLIC COMMENTS

E. CONSENT CALENDAR

1. City Commission Regular Minutes, August 9, 2017
2. City Commission Regular Minutes, August 23, 2017
3. Public Arts Advisory Board Minutes, May 15, 2017
4. Accounts Payable, August 2017
5. Approve the waiver for a Special Dispenser's Permit for Bullocks for an event to be held at Our Lady of Perpetual Help Church on September 16, 2017.

NEW BUSINESS *(Continued)*

3. Discussion/Action: Approval of the Records Inventory List for destruction. Renee Cantin, Clerk-Treasurer

I. REPORTS

1. City Manager
2. City Attorney
3. City Commission

J. EXECUTIVE SESSION

1. Threatened or Pending Litigation (Hot Springs Land Developement) *Pursuant to 10-15-1(H.7)*
2. Threatened or Pending Litigation (Ron Fenn) *Pursuant to 10-15-1(H.7)*
3. Limited Personnel Matters (City Manager) *Pursuant to 10-15-1(H.2)*

K. ACTION ON ITEMS DISCUSSED DURING EXECUTIVE SESSION, if any.

L. ADJOURNMENT

NEXT CITY COMMISSION MEETING SEPTEMBER 27, 2017 at 1:00 p.m.
Please Note the time change for next meeting.

PUBLIC ARTS ADVISORY BOARD MEETING

August 21, 2017

MINUTES

TIME & PLACE:

The Public Art Advisory Board of the City of Truth or Consequences, New Mexico met in the conference room in the Administration Annex at 401 McAdoo, Truth or Consequences, New Mexico on Monday, August 21, 2017 at 4:00 P.M.

PRESIDING OFFICER:

The meeting was called to order at 4:05 PM by Sid Bryan.

ATTENDANCE:

Sid Bryan, Tourism
Cary "Jagger" Gustin, Sierra Arts Council
Eduardo Alicea, Art Representative
Juan Fuentes, City Manager

Other Staff Present: Traci Burnette, Linda Sparks, Secretary

Visitors Present: Cheryl Zeeb, Sierra County Arts Council

QUORUM: There being a quorum present, the Board proceeded with the meeting.

UPDATE ON BOARD APPOINTMENTS:

Linda Sparks explained that the agenda for the June 28, 2017 City Commission meeting and the Commission Action Form (CAF) included in their packet was to inform Eduardo Alicea, Sid Bryan and Jagger Gustin that their applications for reappointment to the Board were approved by the City Commission.

An application for membership from Andy Underwood was discussed briefly. Juan explained that Jia Apple resigned from the Board and her e-mail was included in their packet. Also part of the packet is Andy's application and a short bio copied from his webpage. That being said, Juan stated that Mr. Underwood's application is before the Board for consideration. Jagger Gustin spoke on his behalf stating that he thinks Andy would make a great Board member. Andy has lived here a long time and he is a registered contractor in the area. He is acquainted with building codes and all kinds of stuff. He can help when we start to build at the Art Park. He thinks Andy can give the Board practical advice. Sid asked for further discussion. Eduardo Alicea stated he was okay.

Jagger moved to accept Andy's application for membership, seconded by Sid Bryan, and it carried. Jagger immediately clarified that Andy would serve as a business member. Linda Sparks confirmed that Jia Apple represented the business community.

APPROVAL OF MINUTES:

A motion to approve the minutes of the May 15, 2017 meeting was made by Juan Fuentes, seconded by Eduardo Alicea, and it carried.

COMMENTS FROM THE PUBLIC:

Cheryl Zeeb introduced herself stating that she is new to the area and is on the Sierra Arts Council. She wants to know what's going on with public art because she loves public art.

FYI 2018 RODEO ARENA ART PROJECT:

Juan began by stating that the Art Park project is going through the design process. While that project is being finalized and moving forward and being overseen and administered by MainStreet, we will let Linda and the group kind of handle that and the Board can go on to another project since we're starting a new fiscal year. One of the things that, as you may all be aware of, the City is investing quite a bit in the County making improvements to the rodeo arena. Juan commented that he knows that the Board has done projects in the downtown area, but would there be interest to do a project out by the rodeo arena that can become a marquee for directing people to the area. The City will be investing more into making improvements to the rodeo arena this year so that we can use it more and more and try to attract more people into town. Juan passed out a picture of a sculpture by R. Wm. Winkler (incorporated into the minutes by reference herein). The sculpture is of a horse on a platform on wheels, measuring 90"H x 80"W x 44"D. Juan thought to ask if the Board would be interested in putting in some sort of a bid. Juan commented that he is not familiar with the sculpture and asked if anyone was.

Jagger stated that he's very familiar with Mr. Winkler. He also did the steel statue of a cow on the corner of Pershing and Main. The cow's name is Joy. That was an Arts Council project as well some years ago. Mr. Winkler lives in Hillsboro. He is a very accomplished statue artist. This is one of his horse sculptures.

Juan thought there might be interest from the group to somehow incorporate the horse somewhere in the rodeo arena. There was some confusion as to which rodeo arena Juan was referring to. Juan explained that it's the one near the Sports Complex.

Jagger commented that the City and the County are making some really nice upgrades to that arena and it would make sense to try to beautify it.

Juan continued that if there is interest from the Board on doing some art piece out there, we can start spreading it throughout the City. Now that we have a tourism person on board, one of the things he discussed with her is upgrading the Civic Center's marquee on 3rd and Date to an electric billboard that you can program messages from the office. The old marquee can be refurbished and turned into a directional sign for the rodeo arena because it's kind of hidden away.

Questions arose about who the new tourism person is. Juan informed the Board that the City hired Melanie Anderson as the Tourism/Event Coordinator. She started 8/21/17 and will be going around and introduce herself. She has a B&B out of state.

Jagger asked if this needs to go out to a call for artists.

Juan replied that we can do one of two things. If this is an interest to the Board, we can certainly put a call out. Under the procurement code, art is exempted. We can go that option as well. If it's something like this (referring to the Winkler sculpture), we can put a call out. We would like to see bids and sculptures that are rodeo related.

Sid asked, what's the price on this one? Juan answered; he believes it's in the neighborhood of \$4,000.00 specifically for this one.

Jagger commented that he believes that's what the cow cost. Sid countered that it was \$3,000. He added that he thinks the public paid for half . . . interrupted. Jagger interjected that the Arts Council paid for it entirely. Sid replied that it did not. He paid \$300.00 and there were several other people who did that too and the City paid some.

Juan stated that in an effort to beautify that area, this is something that the Board can propose if that's the will of the Board to do a beautification art project in that area, especially now that we are investing more and more money into it. The City redid the rodeo arena sign. Whether this can be fit by that sign along with southwest landscaping around it, that's where Traci can come in; or by the road with the directional sign saying rodeo arena.

Eduardo commented that with the Art Park there was a deadline, and then it was extended. If we go with this project at the arena, is there any reason to rush it.

Juan replied that there is no reason to rush it.

Cheryl Zeeb asked if there is an annual rodeo in T or C. Juan answered, yes. Cheryl asked when. Jagger replied that he believes it's in the mid of October. Juan commented that it's probably tied in with the Fair.

Sid asked if this would take away from the Art Park. Juan answered, no. This is a new fiscal year so this would be a whole different project. Juan stated that he doesn't know, unless the rest of the Board knows, where we are at with the Art Park. Has a design been finalized and what's the cost going to be? We seem to be getting bogged down with that project. Sid asked if wasn't Linda DeMarino going to come to this meeting and give the Board an update. Juan replied that we can ask her to come next month if that is what the Board wants. Juan would like to move on so that we can continue to promote art in the community.

Jagger asked if the Winkler sculpture was for sale. He added that he absolutely likes Mr. Winkler's work, but he is concerned that somebody might say how come we didn't . . . you know what I'm saying? He thinks it would be better if there was a call for artists because there might be somebody else out there that wants to submit. Another thing

we can do is it would be rodeo themed, it would be sturdy out of metal where the elements won't damage it. You specify sculpture because you don't want a painting out there since you can't put anything indoors. You create a criteria/prospectus and then you put that out to a call for artists so that anybody can apply. Depending on how many people you get, you might want to select maybe a third and have those people come with their piece and make a presentation and then make a selection from there.

Juan asked if there is a general consensus on a project like this. Jagger replied he thinks so, it makes sense. Sid said he would like to hear Linda's report next month first to see how these will ducktail or not, and if they do, then yes. He doesn't want 50 things to go through. Eduardo stated that Juan said that this would not affect any investment that's going on with the Park; this is totally different. Juan confirmed that this does not affect the Art Park. I want to make it clear, that's still moving forward. Once MainStreet gets the plans and comes back and says now let's go forward, we'll work on that. If there is a general consensus, let's try to do something on our project at the rodeo arena. Juan addressed Jagger saying he described the prospectus really good and asked Jagger to put those ideas on paper, circulate it around to Linda and everybody. We can come up before the next meeting with a better idea for the call for art. Jagger replied that the reason he outlined those things was because that was the procedure at the Museum for the fountain years ago. Those were State directives. You get together and develop what you want. You put dimensions on it; it needs to be outdoors, etc. You develop the prospectus and put it out to the community, even statewide. Juan asked Jagger to put all those ideas on paper so that by the time we meet again next month, we can fine tune it and have it close to finalized so that at the following meeting we can have it back on the agenda as the RFP for art. Eduardo asked Juan if he has already picked a spot for it. Juan answered no; it would be something that the Board could decide what would be the best location. Jagger added that you can also put a price. You can say it needs to be \$2,000, \$25,000 or \$800. Then the artist would make the project fit what you're calling for. Juan commented that you don't want somebody to propose a \$10,000 project. Jagger replied that you decide what your budget is and you put that on the prospectus, then the artist knows that he has to design something that is \$3,000 or whatever you decide. That's how it worked at the Museum. It was a \$100,000 project. The local committee had to come up with \$10,000 and the State gave us \$90,000. So when it went out, it was for \$100,000. Juan stated he couldn't remember the last time this Board created something like that. Sid commented that the last thing we created, that he is aware of, and which is down now and it hasn't been put back up, are those paintings that were across from Ralph Edwards Park along the wall of the housing complex, Villa del Sol. Eduardo stated he heard that they are in storage. They were deteriorating and they were taken down to fix them. They were put inside an office instead of hanging them outside. That is what he heard on the street. Juan commented that's probably been a number of years. Going back to the call for art, Eduardo asked if the artist should establish the foundation for it. Should he know to put concrete on the floor for the sculpture or is that to be added later and things like that. Jagger replied that's what you do when you develop your prospectus. You say it needs to be 6' x 2, it needs to be out of plastic, it needs to be red. You give them the budget. You build that into it. You decide if you want the concrete to be provided.

Jagger gave a short update on the Art Park since he is on the MainStreet Board. He reported that MainStreet contracted with Sabina Muñoz, the lady out of El Paso. He doesn't know if they have any work for her yet. He also stated that they applied for a grant from Art Place America. That will provide quite a bit of funding, he believes, to work the Art Park. It will incorporate water harvesting and the art and different stuff. People came from New York and they were very excited by that site. They encouraged the MainStreet people to apply for that and to make sure the applications were all correct and turned in on time. Sid asked if they were the people that they all met. Jagger answered, yes. Again, it incorporates water harvesting and taking care of drainage in that area in addition to the art. They were very encouraging in telling the MainStreet people to apply for it.

Juan stated he hasn't seen the application and asked Traci if she had a copy. Traci answered, no. Juan continued that it really depends on what was presented on the application. He stated that with Jagger's ideas on paper, we can develop a process that we can continue to change it up and fine tune it, and then next year we'll have another call. Jagger stated that he will dig through his files for the guidelines from the State that show how that worked.

Cheryl Zeeb commented that as far as the number of applicants, you really could in your prospectus say that you have to be a Sierra County resident. We have a lot of artists here if you want to reduce the number of applicants. Juan stated that we could advertise locally. Sid stated that along with that since this is a City and County thing together paying for it, it should perhaps be restricted to Sierra County. Juan doesn't think we can restrict. Sid replied that a lot of ill will was created when the Spaceport picked that Arizona artist to do the one out at the Spaceport, especially when that was first advertised that it was going to be an open thing. Juan stated what we can do is what we have done with other RFPs, you can give so many points for preference to give a little bit of an edge to those who are local. I just don't want to discriminate and get in trouble that way, but we'll advertise locally and that will still meet our goal. Since we're going into the new fiscal year, it would be nice to work on another art project and get it accomplished and then do something else the following year. Jagger asked if we are able to know what the budget is. Juan replied that he will bring that to the next meeting.

Jagger asked if the Winkler sculpture is about \$4,000. Juan answered, yes. He added that a budget within that range is not unreasonable. Sid commented that if we offer him \$3,000, we might get it for that then we wouldn't have to go through all this other work. Jagger stated that this is quite spectacular, he's seen it. It's got barbed wire for the tail, and it's made out of old stove parts and steel and pressed metal and stuff. It's quite impressive. Its mane is out of barbed wire that's been separated. It's on a cart. He's made several of them. There is one in Santa Fe at a hotel. Cheryl asked if the horse itself is 3 dimensional. Jagger replied that it's finished on both sides just like the cow. Sid commented that the cow has held up very well. Juan and Jagger agreed.

Juan stated that for the next meeting, we can review the call for art guidelines and have Linda give an update on the Art Park.

Eduardo said so we do the call first. We'll do like the fountain when once finals were selected, they were presented to the public for their opinion. Jagger replied that you would do that once you've selected your final pieces, because if you'll remember at the fountain, those 4 artists built the mockups and they brought them here. They were at the Civic Center. There were like 2 different times when the public could look at them. So there were 2 opportunities for the general public to give comment on those 4 pieces. Then the selection committee actually selected . . . Sid interjected that the State provided \$90,000 and the artists were able to do mockups. This one happens to already be done. Jagger said he thought they were paid to do the mockups actually.

Juan stated that when we establish those guidelines, it's really up to the Board to decide how it wants the process to flow, but again realize that the Arts Board will be the ones making recommendations. If you put it out for other folks, almost like by a vote, I don't know how that would go, whether you will end up with a final product to recommend. That's why the Board is here to make that recommendation. Personally, he likes things simple. He likes the process simple. He would rely on the Board's expertise rather than trying to have a general public consensus because it is hard to get public consensus, but he knows it's different in a project like the fountain and the plaza. This is smaller in scale. Sid commented that there was no backlash from Joy. Everybody seemed happy with it. It seems that if you have a selection committee for something that's large, you are going to have factions that . . . it's difficult.

Juan said that's all he had on that item, just wanted to get a feel from the Board if it would be a worthy project to pursue. It looks like it is, so we'll work up the guidelines.

Cheryl said she heard there are no time constraints, but if the Board wanted it by the October fair then going with a piece that's already there makes a difference. If you don't care until next year, that changes things. If the renovations are done now and you're trying to have it look nice for the fair, this would be easier. Referring to the Winkler piece, Cheryl said it doesn't say 'rodeo' to her. She loves it, but when she thinks rodeo, this isn't where her head goes. She likes having it open to the public.

Jagger suggested maybe scheduling a time to go out there and look because where would you put something like that out there. It has to be a nice place where cars wouldn't run into it. Juan said that we can talk about placement at the next meeting.

Jagger also asked if the Board can discuss next time about getting Jeff Barbour paid. Juan said he saw Jeff at the auction and Jeff told him he would be submitting an invoice for storage, which he did. Jagger continued that Reed Rockets is complete and it's not his fault that we haven't been able to install it at the park yet. Juan replied that it is a problem for the City to pay for stuff that is not complete, even though it's not his fault, but he is getting paid for storage. That's why it would be in our interest to get an update and try to pressure this project to move forward.

COMMENTS FROM THE PUBLIC ARTS ADVISORY BOARD:

No additional comments were made, other than the participation in discussions noted above.

TIME, PLACE AND DATE OF NEXT MEETING:

After a brief discussion, it was decided to meet on September 18th and invite Linda DeMarino with MainStreet to give the Board an update on the Art Park.

ADJOURN:

There being no further business to come before the Board, the meeting was adjourned at 4:35 P.M. Andy Underwood moved to adjourn, seconded by Jagger Gustin, and it carried.

ATTEST:

Minutes were approved on September 18, 2017 on a motion made by Andy Underwood and seconded by Eduardo Alicea, and it carried.



Linda Sparks
Secretary

Art in Public Places (AIPP) Policies

1. Sites with 1% budgets from \$1,000 through \$40,000 must purchase existing artwork through one of two direct purchase initiatives; the *New Mexico Only Purchase Initiative*, which is administered on odd-numbered fiscal years, or the *Acclaimed Artist Series* administered on even-numbered fiscal years.
2. Artwork acquired with 1% funds must be selected through open competition using the procedures developed by New Mexico Arts and approved by the New Mexico Arts Commission.
3. Artwork for a site is selected by a committee of local community members ensuring that the selected art reflects the cultural, ethnic and artistic diversity of New Mexico, the region and the nation.
4. AIPP funds are spent on artist fees for original artwork.
5. AIPP funds cannot replace construction funds. If the Owner Agency wants to have a budgeted item created by an artist through the AIPP Program, the budgeted funds must be added to 1% funds.
6. AIPP funds must be spent on visual art as defined in the AIPP Statute. Funds cannot be used to purchase signage or memorials.
7. All artwork must be displayed in areas accessible to the public at all times.
8. AIPP funds may not be spent for artwork created for an institution or agency by an employee of the institution or agency.
9. Immediate relatives of members of the Regional Buying Committee or the Local Selection Committee are ineligible to apply for projects involving that committee.
10. Owner Agencies may aggregate AIPP funds for use at the same facility, campus, or institution.
11. All 1% funds for a single project over \$100,000 can be divided only once for a maximum of 2 projects for the site.
12. AIPP funds cannot be expended for artwork utilizing water as a component.
13. New Mexico Arts AIPP determines where funds for auxiliary buildings will be utilized.
14. Commission Projects:
 - Local Selection Committee (LSC) is comprised of 5 key members with a maximum of 11 members. LSC membership requires one representative for each of the following: owner agency, user agency, architect/engineer that is familiar with the building and grounds, arts professional, artist, and for colleges/universities a member of the Board of Regents. **These key voting members must be present at all meetings.** Also suggested is a community representative or for colleges/universities, a student.
 - AIPP has final approval of LSC membership.
 - The selection of finalists requires a clear majority vote of the LSC, however, a 2/3 majority vote duly moved and seconded by the LSC is required for final approval of the selected artist or artwork.
 - Artists are generally given one year from DFA approval of the final contract to complete a project. Requests for amendments must be received 60 days prior to the term of the contract.
 - No more than 2 commission projects can be awarded to an artist during a 5-year period.
 - Artists are requested to refrain from applying to projects for a 5-year period if an owner/user agency is not pleased with the completed artwork and the artist refuses to rectify the situation to the satisfaction of the owner/user and New Mexico Arts. It would not be an aesthetic issue but one that might include a marred patina on an artwork or faulty installation of an artwork.
 - Artists in breach of contract shall not apply to new projects during the length of time the dispute is in litigation or the period of time it takes the artist to settle the breach.
15. Purchase Projects:
 - Artists whose artwork has been selected numerous times through the POP (Purchase Only Program) selection process are requested not to submit their artwork to the POP for a period of 4 years since the last acquisition.
 - Each site will be limited to a maximum of two purchase contracts.
 - All project balances shall revert to the Art in Public Places program to be expended for other initiatives that are related to placement of artwork in the public eye.

Selection Process for Commissioned Public Artwork

Overview: The Local Selection Committee (LSC) Project Director and the AIPP Project Coordinator will guide the LSC through the artist selection process. Although many committees may meet several times depending on the scope and budget of the project, there will be a minimum of 3 in-person meetings for every committee. At the first meeting the LSC will discuss the project intent and development of the prospectus. The AIPP Project Coordinator will then draft the prospectus and send it to the LSC Project Director who will distribute it for approval and comment. Artists will then submit their qualifications according to the prospectus guidelines via CaFÉ at <http://callforentry.org>. The LSC will evaluate the submissions, select up to five finalists and ultimately award the commission. Each of these steps varies in length of time and number of meetings. All artwork acquired through the AIPP Program *must* be displayed in areas accessible to the public at all times. Artwork may not be displayed in private offices. All artwork must comply with ADA guidelines.

Project Director: Each AIPP project must have a designated LSC Project Director assigned by the Owner or User Agency of the building. The AIPP Coordinator will assist the LSC Project Director in assembling the LSC and work with the committee to develop the project intent, prospectus and facilitation of the selection process. Please refer to the *Project Director Responsibilities* for further information.

Local Selection Committee: An integral component of the AIPP program is community involvement. In order to assure that the works of art selected reflect the attitude and taste of the community, local participation in the artwork selection process is a major concern of New Mexico Arts. All LSC members are required to sign a Conflict of Interest form prior to participation.

Membership: In consultation with and according to the guidelines of New Mexico Arts, AIPP, LSC members are appointed by the Owner or User Agency of the public building. The LSC is comprised of five key voting members and in certain circumstances, seven members. The five key LSC members must be present at all meetings in order for a meeting to take place. Local community leaders and the local arts organization can be consulted to make recommendations for LSC membership. The AIPP Program Manager will provide final approval of the LSC.

The 5 key LSC members must be present for any meeting to take place. The key members are: Owner Agency Representative, User Agency Representative, Architect/Engineer (familiar with the building and/or grounds), Artist and Arts Professional. If an Architect/Engineer is not required due to the scope of the project, it is mandatory for one Community Representative to serve on the LSC. For college/university campuses, one member of the Board of Regents (or an assigned designee), and one student must serve on the LSC. The LSC must reflect the cultural diversity of the community.

Artwork Selection Process

Meeting 1, Prospectus Development: The Local Selection Committee, with assistance from the AIPP Coordinator, considers various criteria to identify the location(s) for the artwork, type of art appropriate for the site and the project intent. The AIPP Coordinator assembles the criteria and develops the prospectus. Committees are usually able to determine the criteria for the desired artwork during the first meeting.

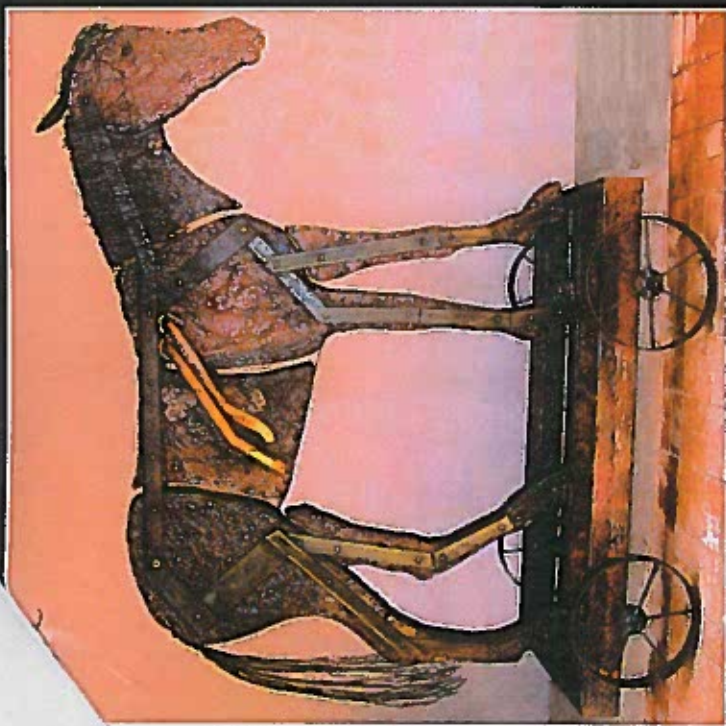
Distribution of Project Information: Upon development of the prospectus and approval by the LSC, New Mexico Arts will distribute the call for artists in the following ways.

- The New Mexico Arts e-newsletter, **ARTSpeak**, is distributed to artists, galleries, and arts organizations throughout the state and beyond. ARTSpeak is the primary vehicle for the release of all AIPP commission and purchase projects. If an announcement for a call falls in a month when ARTSpeak is not scheduled, AIPP will send a separate e-blast to the ARTSpeak mailing list.
- Public Service Announcements are sent to appropriate statewide, regional and national media sources including newspapers, arts publications, and online project opportunity lists. The Project Director is encouraged to follow up on advertising in the local media.
- LSC members are encouraged to suggest artists they feel are qualified to apply for the project. LSC members are required to enter into a Conflict of Interest Agreement.
- AIPP uses the CaFÉ electronic application and selection process online at <http://www.callforentry.org>. All materials must be submitted according to the specifications outlined on the CaFÉ website.

Meeting 2, Submission Review: Approximately one week after the submission deadline, the Project Director and members of the LSC will begin an independent first-round review of submissions via CaFÉ. The AIPP Project Coordinator will provide each member of the LSC with unique log-in information to access the submissions.

Meeting 3, Finalist Selection: Once the LSC has completed the independent first-round review, the committee will then meet in-person to discuss the remaining submissions and select up to 5 finalists for the project.

Meeting 4, Finalist Presentation: Approximately two months from when the LSC selects finalists for the project, finalists will present proposals and/or maquettes to members of the LSC and the public. The LSC reviews the finalists' presentations and proposals or the selected artist's proposal. The final selection of an artist and artwork must be formally approved by a 2/3-majority vote of the LSC, duly moved and seconded. All five key members of the Local Selection Committee must be present for this vote. The LSC approves and signs off on the final design (drawing/maquette) of proposed artwork. This can usually be accomplished through email and/or telephone conversations with the LSC and not a formal meeting.



JUSTIN & JESSICA'S ARTS & CRAFTS

R.Wm.WINKLER

contact: rwinkler@comcast.net



E.5

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Approve the FAA Land Lease Renewal for the Remote Communications Air/Ground Facility (RCAG).

BACKGROUND:

The proposed land lease is one that has been in place since 1997. The current lease is due to expire on September 30, 2017. City Attorney Rubin has reviewed the attached proposed lease and did not see much practical difference in the two leases.

The subject site is used for an RCAG (Remote Communications Air/Ground). The RCAG is an important communications link between pilots and ground based FAA dispatch and control personnel.

This RCAG is a critical component of the National Air Space (NAS) system in central New Mexico in that it provides a vital communications link between pilots and the ground based personnel as they track, alert and guide the flight crews through evolving navigation, flight and weather situations.

STAFF RECOMMENDATION:

Approve the 20 year renewal of the FAA Land Lease for the RCAG.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017

LAND LEASE

Between

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

And

THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Lease No: DTFACN-17-L- 00106
(TCS) Remote Communications Air/ Ground (RCAG)
Truth or Consequences, New Mexico

THIS LEASE is hereby entered into by THE CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO whose address 505 Sims Street, Truth or Consequences, New Mexico 87901, hereinafter referred to as the Lessor and the UNITED STATES OF AMERICA, hereinafter referred to as the Government. This lease shall become effective when it is fully executed by all parties. The terms and provisions of this lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

This lease succeeds Lease No. **DTFA01-98-L-01007** and all other previous agreements between the parties for the leased property described in this document.

WITNESSETH: The parties hereto, for the consideration hereinafter mentioned covenant and agree as follows:

1. PREMISES (08/02) - The Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises:

FACILITY SITE

LOCATED WITHIN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER AND THE SOUTH ONE-HALF OF THE NORTHEAST ONE-QUARTER (NW1/4 NE1/4 & S1/2 NE1/4) OF SECTION 29, T.12 S., R.4 W., N.M.P.M., SIERRA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A USGLO BRASSCAP FOUND FOR THE NORTH ONE-QUARTER CORNER OF SAID SECTION 29, THENCE, S 25°54'20" E, A DISTANCE OF 679.69 FEET TO THE NORTHEAST CORNER AND TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE, S 0°53'38" E, A DISTANCE OF 129.28 FEET TO THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED; THENCE, S 89°56'13" W, A DISTANCE OF 130.08 FEET TO THE SOUTHWEST CORNER OF THE TRACT HEREIN DESCRIBED; THENCE, N 0°03'24" W, A DISTANCE OF 128.90 FEET TO THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED;

THENCE, N 89°46'19" E, A DISTANCE OF 128.19 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.383, MORE OR LESS; AS MORE PARTICULARLY SHOWN ON THE ODEN & ASSOCIATES SURVEY S2016-066, DATED 7/15/2016, IDENTIFIED AS EXHIBIT "A," ATTACHED HERETO AND MADE A PART HEROF.

ACCESS ROAD

THIRTY FEET (30') WIDE STRIP OF LAND WHICH IS LOCATED WITHIN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER AND THE SOUTH ONE-HALF OF THE NORTHEAST ONE-QUARTER (NW1/4 NE1/4 & S1/2 NE1/4) OF SECTION 29, T.12 S., R.4 W., N.M.P.M., SIERRA COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A USGLO BRASSCAP FOUND FOR THE NORTH ONE-QUARTER CORNER OF SAID SECTION 29, THENCE, S 45°45'50" E, A DISTANCE OF 3197.91 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NM 181 & 52, WHICH IS THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE, S 89°46'12" W, A DISTANCE OF 1166.91 FEET; THENCE, FOLLOWING A CURVE TO THE RIGHT WHOSE RADIUS IS 144.83 FEET, WHOSE ARC LENGTH IS 254.71 FEET, WHOSE CENTRAL ANGLE IS 100°46'02", AND WHOSE CHORD BEARS N 39°50'47" W, A DISTANCE OF 223.13 FEET; THENCE, N 10°32'14" E, A DISTANCE OF 299.89 FEET; THENCE, FOLLOWING A CURVE TO THE LEFT WHOSE RADIUS IS 203.65 FEET, WHOSE ARC LENGTH IS 243.32 FEET, WHOSE CENTRAL ANGLE IS 68°27'19", AND WHOSE CHORD BEARS N 23°41'26" W, A DISTANCE OF 229.10 FEET; THENCE, N 57°55'06" W, A DISTANCE OF 633.44 FEET; THENCE, FOLLOWING A CURVE TO THE RIGHT WHOSE RADIUS IS 190.67 FEET, WHOSE ARC LENGTH IS 218.84 FEET, WHOSE CENTRAL ANGLE IS 65°45'30", AND WHOSE CHORD BEARS N 25°02'21" W, A DISTANCE OF 207.02 FEET; THENCE, N 7°50'24" E, A DISTANCE OF 298.32 FEET; THENCE, FOLLOWING A CURVE TO THE LEFT WHOSE RADIUS IS 56.68 FEET, WHOSE ARC LENGTH IS 97.69 FEET, WHOSE CENTRAL ANGLE IS 98°44'01", AND WHOSE CHORD BEARS N 41°31'37" W, A DISTANCE OF 86.04 FEET TO A POINT ON THE EASTERLY LINE OF THE FACILITY LEASE SITE; THENCE, S 0°53'38" E, A DISTANCE OF 30.00 FEET; THENCE, FOLLOWING A CURVE TO THE RIGHT WHOSE RADIUS IS 26.68 FEET, WHOSE ARC LENGTH IS 45.99 FEET, WHOSE CENTRAL ANGLE IS 98°44'01", AND WHOSE CHORD BEARS S 41°31'37" E, A DISTANCE OF 40.51 FEET; THENCE, S 7°50'24" W, A DISTANCE OF 298.32 FEET; THENCE, FOLLOWING A CURVE TO THE LEFT WHOSE RADIUS IS 220.67 FEET, WHOSE ARC LENGTH IS 253.27 FEET, WHOSE CENTRAL ANGLE IS 65°45'30", AND WHOSE CHORD BEARS S 25°02'21" E, A DISTANCE OF 239.59 FEET; THENCE, S 57°55'06" E, A DISTANCE OF 633.44 FEET; THENCE, FOLLOWING A CURVE TO THE RIGHT WHOSE RADIUS IS 173.65 FEET, WHOSE ARC LENGTH IS 207.48 FEET, WHOSE CENTRAL ANGLE IS 68°27'19", AND WHOSE CHORD BEARS S 23°41'26" E, A DISTANCE OF 195.36 FEET; THENCE, S 10°32'14" W, A DISTANCE OF 299.89 FEET; THENCE, FOLLOWING A CURVE TO THE LEFT WHOSE RADIUS IS 174.83 FEET, WHOSE ARC LENGTH IS 307.47 FEET, WHOSE CENTRAL ANGLE IS 100°46'02", AND WHOSE CHORD BEARS S 39°50'47" E, A DISTANCE OF 269.35 FEET THENCE, N 89°46'12" E, A DISTANCE OF 1178.28 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NM 181 & 52; THENCE, N 21°00'00" W, ALONG SAID WESTERY RIGHT-OF-WAY, A DISTANCE OF 32.08 FEET TO THE POINT OF BEGINNING, AND CONTAINING 2.217 ACRES MORE OR LESS; AS MORE PARTICULARLY SHOWN ON THE ODEN & ASSOCIATES SURVEY S2016-066, DATED 7/15/2016, IDENTIFIED AS EXHIBIT "A," ATTACHED HERETO AND MADE A PART HEROF.

A. Together with a right-of-way for ingress to and egress from the premises for Government employees, their agents and assigns, a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication, and/or water lines to the premises; all rights-of-way to be over said lands and adjoining lands of the Lessor, and unless herein described otherwise, to be by routes reasonably determined to be the most convenient to the Government.

B. And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Government facilities.

C. And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government.

2. **TERM (08/02)** - To have and to hold, for a term commencing on October 1, 2017 and continuing through September 30, 2037 inclusive.
3. **CONSIDERATION (08/02)** - The FAA shall pay the Lessor no monetary consideration, it being mutually agreed that the rights extended to the FAA herein are in consideration of the obligations assumed by the FAA in its establishment, operation, and maintenance of Remote Communications Air/Ground facility (RCAG) upon the premises hereby leased.
4. **HOLDOVER (10/13)** - If, after the expiration of the lease, the Government shall retain possession of the premises, the lease shall continue in force and effect on a month-to-month basis. Rent shall be paid in accordance with the terms of the lease, in arrears on a prorated basis, at the rate paid during the lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee or vacated the premises.
5. **CANCELLATION (08/02)** - The Government may terminate this lease, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate by delivering to the Lessor a written notice specifying the effective date of the termination. The termination notice shall be delivered by certified mail return receipt requested and mailed at least 30 days before the effective termination date.
6. **NON-RESTORATION (7/14)** - It is hereby agreed between the parties that, upon termination of its occupancy (due to termination or expiration of the lease), including any holdover period, the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property that is the subject of this lease. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor.
7. **PAYMENT BY ELECTRONIC FUND TRANSFER (07/14)** - N/A
8. **LESSOR PAYMENT INFORMATION - NON-SAM (01/13)** - N/A
9. **QUIET ENJOYMENT (10/96)** - The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.
10. **SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (07/14)**
 - A. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust

or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

11. NOTIFICATION OF CHANGE IN OWNERSHIP OR CONTROL OF LAND (10/14) -

If the Lessor sells, dies or becomes incapacitated, or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the Government shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the "change in property rights". Concurrent with the written notification, the Lessor or Lessor's heirs, representatives, assignees, or trustees shall provide the Government copies of the associated legal document(s) for transferring and/or conveying the property rights.

12. LESSORS SUCCESSORS (10/96) - The terms and provisions of this lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

13. CONTRACT DISPUTES (11/03)

A. All lease disputes under or related to this lease shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for

Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A Lessor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

B. All Lease Disputes shall be in writing and shall be filed at the following address: Office of Dispute Resolution for Acquisition, AGC-70, Federal Aviation Administration, 800 Independence Avenue, SW, Room 323, Washington, DC 20591. Telephone: (202) 267-3290 Facsimile: (202) 267-3720.

C. A lease dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the lease claim involved. A lease dispute is considered to be filed on the date it is received by the ODRA.

D. The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

14. ANTI-KICKBACK (7/14) - The Anti-Kickback Act of 1986 (41 U.S.C. § 8701 et seq.), prohibits any person from:

A. Providing or attempting to provide or offering to provide any kickback;

B. Soliciting, accepting, or attempting to accept any kickback; or

C. Including, directly or indirectly, the amount of any kickback in the lease price charged by a prime Lessor to the United States Government or in the lease price charged by a sublessor to a prime Lessor or higher tier sublessor.

15. ASSIGNMENT OF CLAIMS (10/96) - Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 6305 the Lessor may assign his rights to be paid under this lease.

16. COVENANT AGAINST CONTINGENT FEES (08/02) - The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this lease upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this lease without liability or, in its discretion, to deduct from the lease price or consideration, or otherwise recover the full amount of the contingent fee.

17. OFFICIALS NOT TO BENEFIT (10/96) - No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation's general benefit.

18. EXAMINATION OF RECORDS (08/02) - The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until 3 years after final payment under this lease have access to and the right to examine any of the Lessor's

directly pertinent books, documents, paper, or other records involving transactions related to this lease.

19. NOTICES - All notices/correspondence shall be in writing, reference the Lease number, and be addressed as follows:

To the Lessor:

City of Truth or Consequences
City Manager (Juan Fuentes or successor)
505 Sims
Truth or Consequences NM 87901

To the Government:

DOT/Federal Aviation Administration
Real Estate & Utilities Group, ALO-720
10101 Hillwood Parkway
Fort Worth, TX 76177

IN WITNESS WHEREOF, the parties hereto have signed their names.

LESSOR: City of Truth or Consequences

Honorable Steve Green (Mayor) Date: _____

UNITED STATES OF AMERICA

Date: _____

Real Estate Contracting Officer
Patsy J. McComis (Real Estate Contracting Officer - FAA)

PUBLIC AUTHORIZATION CERTIFICATE

I _____ certify that I am the _____ of the City of Truth or Consequences, New Mexico named in the foregoing agreement; and that Steve Green who signed said agreement on behalf of the City of Truth or Consequences, New Mexico was then Mayor of said City of Truth or Consequences, New Mexico; that said agreement was duly signed for and on behalf of City of Truth or Consequences, New Mexico by authority of its governing body, and is within the scope of its powers.

Signed _____



City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901
CITY (505) 894-6673 FAX (505) 894-7767

April 17, 1997

US Department of Transportation
Federal Aviation Administration
Fort Worth, Texas 76130-0000

Re: Expiring Lease No. DOT-FA77SW-1147
New Lease No. DTFA07-98-L-01007
Remote Communications Air/Ground Facility
Truth or Consequences, New Mexico

Attention: Lottie Kirsch
Contracting Officer

Dear Ms. Kirsch:

Enclosed herewith is the Original and two copies of the above duly executed Lease, which was unanimously approved by the City Commission at their Regular Meeting held April 14, 1997.

Sincerely,


Kathleen A. Terrazas
Clerk/Treasurer

KAT/s

Encl.

U.S. Department of Transportation
FEDERAL AVIATION ADMINISTRATION
Southwest Region
Fort Worth, Texas 76193-0054

Lease No. DTFA07-98-L-01007
Remote Communications Air/Ground (RCAG)
Truth or Consequences, New Mexico

LEASE

Between

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

and

THE UNITED STATES OF AMERICA

THIS LEASE, made and entered into this 14th day of April, in the year 1997, by and between CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO whose address is: 505 Sims Street, Truth or Consequences, New Mexico 87901 for itself or its successors, and assigns, hereinafter referred to as the Lessor and the UNITED STATES OF AMERICA, hereinafter referred to as the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. **PREMISES:**

For the term beginning October 1, 1997, and ending September 30, 1998, the Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises, VIZ:

A plot of land in the S1/2 of NW1/4 of NW1/4 of NE1/4 and N1/2 of SW1/4 of NW1/4 of NE1/4 Section 29, T12S, R4W, N.M.P.M., Sierra County, New Mexico, consisting of approximately 10 acres; as more particularly shown on Exhibit "A" (Drawing No. DR. 4-D-5617-2), attached hereto and made a part hereof.

(a) Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the Lessor, and unless herein described otherwise, to be by routes reasonably determined to be the most convenient to the Government.

(b) And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Government facilities.

(c) And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government, and may be removed upon the date of expiration or termination of this lease, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said alterations, fixtures, additions, structures, or signs.

2. RENEWAL OPTION:

This lease may, at the option of the Government, be renewed from year to year and otherwise upon the terms and conditions herein specified. The Government's options shall be deemed exercised and the lease renewed each year for one (1) year unless the Government gives thirty (30) days' notice that it will not exercise its options, before this lease or any renewal thereof expires; PROVIDED, that no renewal thereof shall extend the period of occupancy of the premises beyond the 30th day of September 2017.

3. CANCELLATION:

The Government may terminate this lease at any time by giving at least 30 days' notice in writing to the Lessor. Said notice shall be sent by certified or registered mail.

4. RENT:

The Government shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation, and maintenance of the Remote Communications Air/Ground Facility (RCAG) upon the premises hereby leased.

5. NON-RESTORATION:

It is hereby agreed between the parties, that upon termination of its occupancy, the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property which is the subject matter of this lease. It is further agreed the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the

property of the Lessor. Notice of abandonment will be conveyed by the Government to the Lessor in writing.

6. INTERFERENCE WITH GOVERNMENT OPERATIONS:

The Lessor agrees not to erect or allow to be erected any structure or obstruction of whatsoever kind or nature on the site or adjoining land within the airport boundaries that may interfere with the proper operation of the facilities installed by the Government under the terms of this lease unless consent hereto shall first be secured from the Government in writing.

7. FUNDING RESPONSIBILITY FOR GOVERNMENT FACILITIES:

The Lessor agrees that any relocation, replacement, or modification of any existing or future Government facilities covered by this lease during its term or any renewal thereof made necessary by airport improvements or changes which in the Government's opinion interfere with the technical and/or operational characteristics of the Government's facilities will be at the expense of the Lessor, except when such improvements or changes are made at the written request of the Government. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Lessor or the Government, funding responsibility shall be determined by the Government.

8. HAZARDOUS SUBSTANCE CONTAMINATION:

The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation, and/or maintenance of the Government's facilities. The Lessor agrees to remediate, at its sole cost, any and all other hazardous substance contamination found on the leased premises. The Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased premises not directly attributable to the installation, operation and/or maintenance of the Government's facilities.

9. QUIET ENJOYMENT:

The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

10. OFFICIALS NOT TO BENEFIT:

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

11. COVENANT AGAINST CONTINGENT FEES:

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this lease upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this lease without liability or, in its discretion, to deduct from the lease consideration, or otherwise recover the full amount of the contingent fee.

12. PROTEST AND DISPUTES:

All contract disputes arising under or related to this contract or protests concerning awards of contracts shall be resolved under this clause, and through the Federal Aviation Administration (FAA) Dispute Resolution System. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. The decision of the FAA shall be considered a final agency decision only after a contractor or offeror has exhausted their administrative remedies for resolving a contract dispute under the FAA Dispute Resolution System. Protests must be filed with the Office of Dispute Resolution within five (5) calendar days of the date that the protester was aware, or should reasonably have been aware, of the agency action or inaction which forms the basis of the protest. Information relating to submitting a protest or dispute will be provided by the Contracting Officer, upon request.

13. LESSOR'S SUCCESSORS:

The terms and provisions of this lease and the conditions herein bind the Lessor and its successors and assigns.

14. RESTRICTIONS:

The Lessor does hereby covenant and agree in behalf of itself, its successors, and assigns, not to erect any metal or concrete structure of any sort whatsoever or any equipment capable of emitting radio waves of any frequency or any power transmission line having voltages of over 2300 volts, upon any portion of that following parcel or real property, situated in the County of Sierra, State of New Mexico, which lies within a radius of 1,000 feet

from the center of the Government's facility plot, as above described; and to prohibit the erection of any such structure, equipment, or power line by persons other than the Government or its authorized representatives or contractors.

15. NOTICES:

All notices/correspondence shall be in writing, and shall be addressed as follows (or to such other address as either party may designate from time to time by notice or correspondence to the other):

TO LESSOR: City of Truth or Consequences, 505 Sims Street, Truth or Consequences, New Mexico 87901.

TO GOVERNMENT: Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193-0054.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

**CITY OF TRUTH OR
CONSEQUENCES, NEW MEXICO**

BY: 

TITLE: Mayer

THE UNITED STATES OF AMERICA

BY: 

Lottie Kirsch

TITLE: Contracting Officer

CORPORATE CERTIFICATE

I, Kathleen G. Lujan, certify that I am the City Clerk of the
Corporation named in the foregoing agreement, that Freddie J. Lujan
_____ who signed said agreement on behalf of said corporation, was then
Mayor thereof, that said agreement was duly signed for and in behalf of said
corporation by authority of its governing body, and is within the scope of its corporate
powers.

Dated this 15th day of April, 1997.

Signed by Kathleen G. Lujan

CORPORATE SEAL



U.S. Department
of Transportation
Federal Aviation
Administration
FEB 03 1997

Southwest Region
Arkansas, Louisiana,
New Mexico, Oklahoma,
Texas

Fort Worth, Texas 76193-0000

Mr. John Richardson
Airport Manager
Truth or Consequences Municipal Airport
505 Sims Street
Truth or Consequences, N.M. 87901

Dear Mr. Richardson:

Expiring Lease No. DOT-FA77SW-1147
New Lease No. DTFA07-98-L-01007
Remote Communications Air/Ground Facility
Truth or Consequences, New Mexico

Lease No. DOT-FA77SW-1147, providing the Federal Aviation Administration a land site for a Remote Communications Air/Ground (RCAG) facility, expires by its own terms on September 30, 1997.

Enclosed is an original and four copies of a replacement lease with the same general terms and conditions. If the said instrument is acceptable as written, please have an authorized official date and execute all copies, together with the Corporate Certificate and return the original and two copies to the Department of Transportation, Federal Aviation Administration, Property and Services Branch, Fort Worth, Texas 76193-0054. The extra copy may be retained for your records.

If you require any additional information, please contact Ms. Paula Sandlin of our Logistics Support Staff at (817) 222-4371.

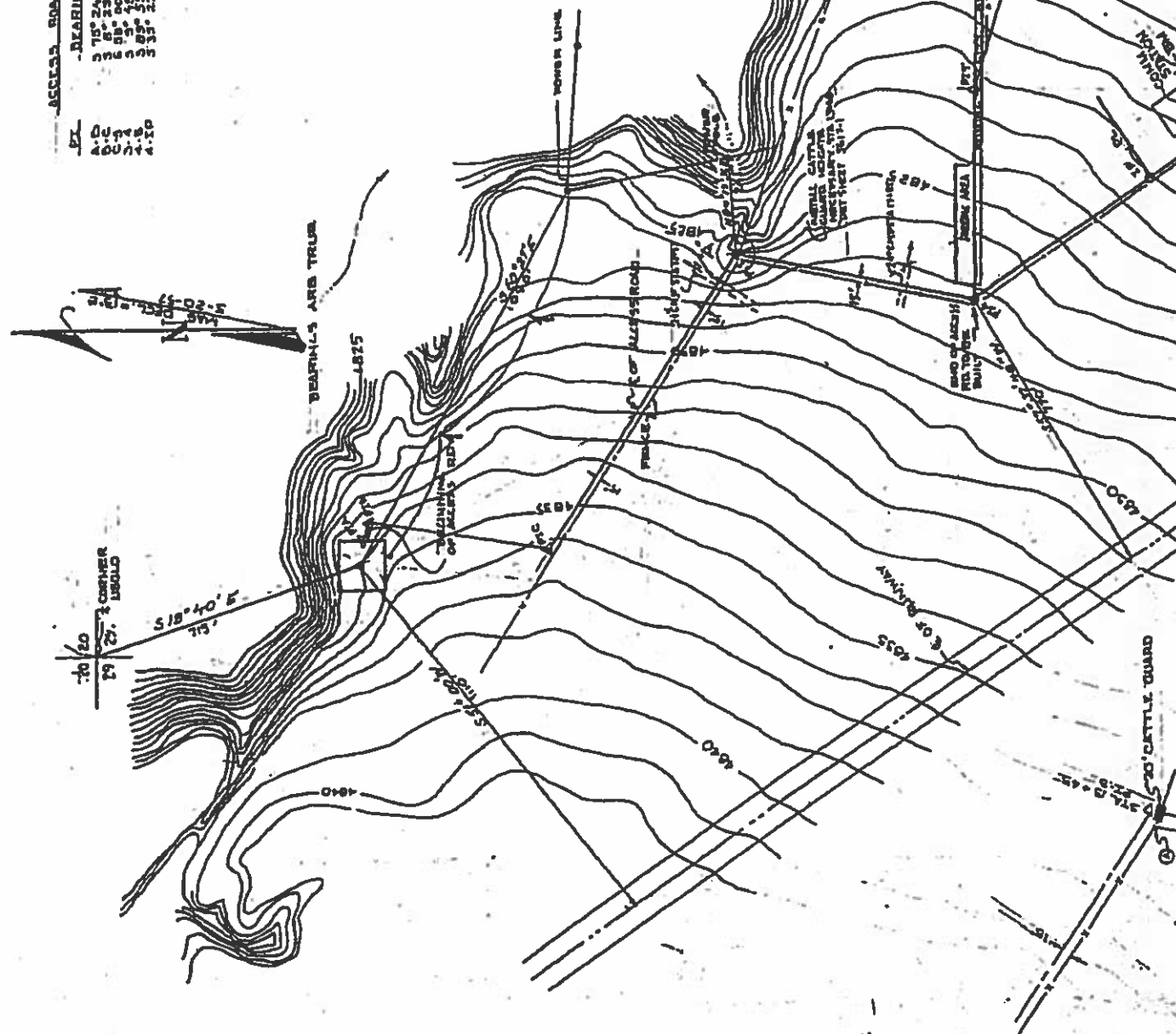
Sincerely,

Lottie Kirsch
Contracting Officer

Enclosure (4)

PT	BEARING	DISTANCE
1	75° 25' 54"	40.2
2	85° 23' 54"	41.5
3	85° 23' 54"	40.5
4	85° 23' 54"	42.0
5	85° 23' 54"	42.0
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99	85° 23' 54"	44.5

CONTOUR





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+
G.1

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Request for Variances at the Winter Haven Mobile Home Park 2335 S. Broadway.
Space #28 to be closer than 15' apart, which the code requires, Sec. 11-14-5 A.

BACKGROUND:

Mr. Skinner and Mr. Peck recently purchased Winter Haven Mobile Home Park and came into the office to speak with Robbie about what they could do with the park, and to make sure they were grandfathered in on how many spaces they had. Robbie provided them with the Municipal Code pertaining to M/H's. They proceeded to move 2 M/H's into the park that did not meet the standards for distances parking and Emergency Vehicle Access. Because the MH had been moved in and partially set, Robbie agreed to work with Mr. Skinner and Mr. Peck and allow #28 to remain since it was within 2 feet of the allowable distance, (however, the neighbor next door to space #28 feels the mobile home is to close his and requests the mobile home be moved over the required 2feet to meet code.)

STAFF RECOMMENDATION:

Approve space #28 which is only 2'short of what the code requires.

SUPPORT INFORMATION:

Planning Application
Comprehensive Statement
Plans

Name of Presenter: Robbie Travis	Department: Community Development	Meeting date: 9/27/17
----------------------------------	-----------------------------------	-----------------------

Winter Haven Mobile Home Park

SPACE # 28
PACKET



RECEIVED
AUG 28 2017

8/28/2017

To: City of Truth or Consequences
Planning and Zoning
505 Sims Street
T or C NM 87901

To whom it may concern,

This mobile home park was laid out as a 31 space park many years ago. The spacing between mobile homes is the current subject as we have moved a home into space #28 and it is only 1.83 ft from the home in space #26 instead of the current required 15-ft. We feel the spaces on this park should be recognized and grandfathered based on the requirements at the time the park was developed as well as the city approval Mr. Travis gave us on Tuesday, April 11th, 2017 to proceed with utility hookups, skirting, and occupation of this home. Please review the attached email chain.

There have been homes in space #28 in the past as this space already has all utility hookups in place to include water, sewer, gas and electrical. It is also important to note that after we were given the blessing from Mr. Travis to move forward on April 11th, 2017 we have spent a considerable amount of time, resources, and money to move forward to occupy this home. We have paid a utility contractor to upgrade the power to a 100amp service, a utility contractor to run the water lines and gas lines which are all hooked up and pressurized waiting for inspection and have purchased all the skirting for this home.

Any additional delay will result in additional loss of revenue.

We respectfully request that you grant a variance of 1.83-ft. and allow the home currently in space #28 to remain.

Thank you for your time.

Alamo Investments LLC
DBA: Winter Haven Mobile Home Park
PO Box 10761
Albuquerque, NM 87184


Jake Skinner, member


Jeremy Peck, member



Alamo Investments LLC

PO Box 10761

Albuquerque NM 87184

Ph. 505-750-8201

RECEIVED
AUG 28 2017

8/23/2017

Alamo Investments LLC is the owner of property known as
Winter Haven Mobile Home Park located at
2335 S. Broadway St. Truth or Consequences, NM 87901.

Alamo Investments LLC is a New Mexico Limited Liability Company with
the following members:

Jack C. Jake Skinner (50%)

Jeremy Peck (50%)

RECEIVED
AUG 28 2017

APPLICATION

Applicant (name from Form A) ALAMO INVESTMENTS LLC Date 08/28/2017

Variance requested: VARIANCE OF 1.83' FROM SIDE SETBACK
FOR A MOBILE HOME

Are there deed restrictions pertaining to the property in question? ☐ Yes (copy attached) ☐ No

Two complete sets of plans attached? ☒ Yes ☐ No

Section 11-5-5C **SUBMISSION REQUIREMENTS** states that the application for variance shall be in the format stipulated by the City and shall contain plans and other information as required by the designated Zoning Administrator. The completed application for a variance shall be submitted to the City Clerk for placement on the agenda of the Planning and Zoning Board for a Public Hearing.

Applicant's Signature: 

Applicant checklist for documents required in support of this application:

- ☒ Payment of filing fee
- ☒ List of adjacent landowners
- N/A Copy of deed restrictions (covenants)
- ☒ Two sets of complete plans

(for official use only)

Date application received: _____ Date application accepted: _____

- _____ Complete application received
- _____ Fee paid
- _____ Required publication completed

Form V page 2 of 2
Rev. 5/07



BUILDING/PLANNING DEPARTMENT
Voice - (575) 894-6673 x 110 Fax - (575) 894-0363
E-mail Rtravis@torcnm.org
505 Sims Street - Truth or Consequences, NM 87901

(Staff Use Only)
Case No

Related Case(s)

AUG 28 2017

PLANNING APPLICATION FORM

The completeness of this application, which includes accompanying plans, shall be subject to the review of the Building/Planning Department. This application is used for a variety of application processes and not all items may apply to your project. If you feel a requirement is not applicable to your project, write "N/A." If you have any questions while completing this application please ask a member of the Planning Department for assistance. Incomplete applications will not be accepted (or the process may be delayed.) (PLEASE PRINT OR TYPE)

CHECK APPLICATION TYPE(S) REQUESTED:

- | | | |
|--|--|---|
| <input type="checkbox"/> Master Plan (\$100 + \$200/lot) | <input type="checkbox"/> Annexation (\$100 or \$10/ac. Max. \$250) | <input type="checkbox"/> CUP/SUP (\$25) |
| <input type="checkbox"/> Master Plan Amendment (\$200) | <input type="checkbox"/> Appeal (\$50) | <input type="checkbox"/> Prelim. Plat or Replat (\$100 + \$200/lot) |
| <input type="checkbox"/> Development Agreement (\$1,000) | <input checked="" type="checkbox"/> Variance (\$25) | <input type="checkbox"/> Final Plat (\$50) |
| <input type="checkbox"/> Change of Zone (\$100 or \$10/ac. Max. \$250) | <input type="checkbox"/> Zone Ordinance Amendment (\$250) | <input type="checkbox"/> Summary Plat (\$50) |
| | | <input type="checkbox"/> Plat Amendment (\$50) |

PROJECT SUMMARY:

Project/Business Name (if any):

SPAC # 28

Project Description (add extra page(s) if needed):

Winter Haven Mobile Home Park

Property Address/Location:

2335 S. Broadway St. 87901

Assessor's Parcel Number(s):

3023079460224

Total Gross Lot Area:

Total Net Lot Area:

Existing Master Plan/Comprehensive Plan Designation:

Existing Zoning Designation:

Proposed Master Plan Designation (if applicable):

Proposed Zoning Designation:

Existing Uses and/or Structures on Site:

mobile home park

Surrounding Uses:

North:

open space

South:

Roadway

East:

Vacant lot

West:

County yard

APPLICANT/ REPRESENTATIVE Name:

REPRESENTATIVE(S):

Telephone No.:

Alamo Investments LLC
505.263.4349

Address:

PO Box 10761

Fax No.:

City:

Albuquerque, NM

State:

NM

Zip Code:

87184

Contact Person:

JAKE SKINNER

E-mail Address:

alamodwellings@gmail.com

I certify under penalty of perjury that all the application information is true and correct:

Applicant's Signature:

Jake Skinner

Date:

8/23/17

PROPERTY OWNER/ AGENT Name:

Telephone No.:

Address:

Fax No.:

City:

State:

Zip Code:

Contact Person:

E-mail Address:

The City will provide the applicant with hearing notices and staff reports unless another party is identified.

Date/Time Received:

Received By:

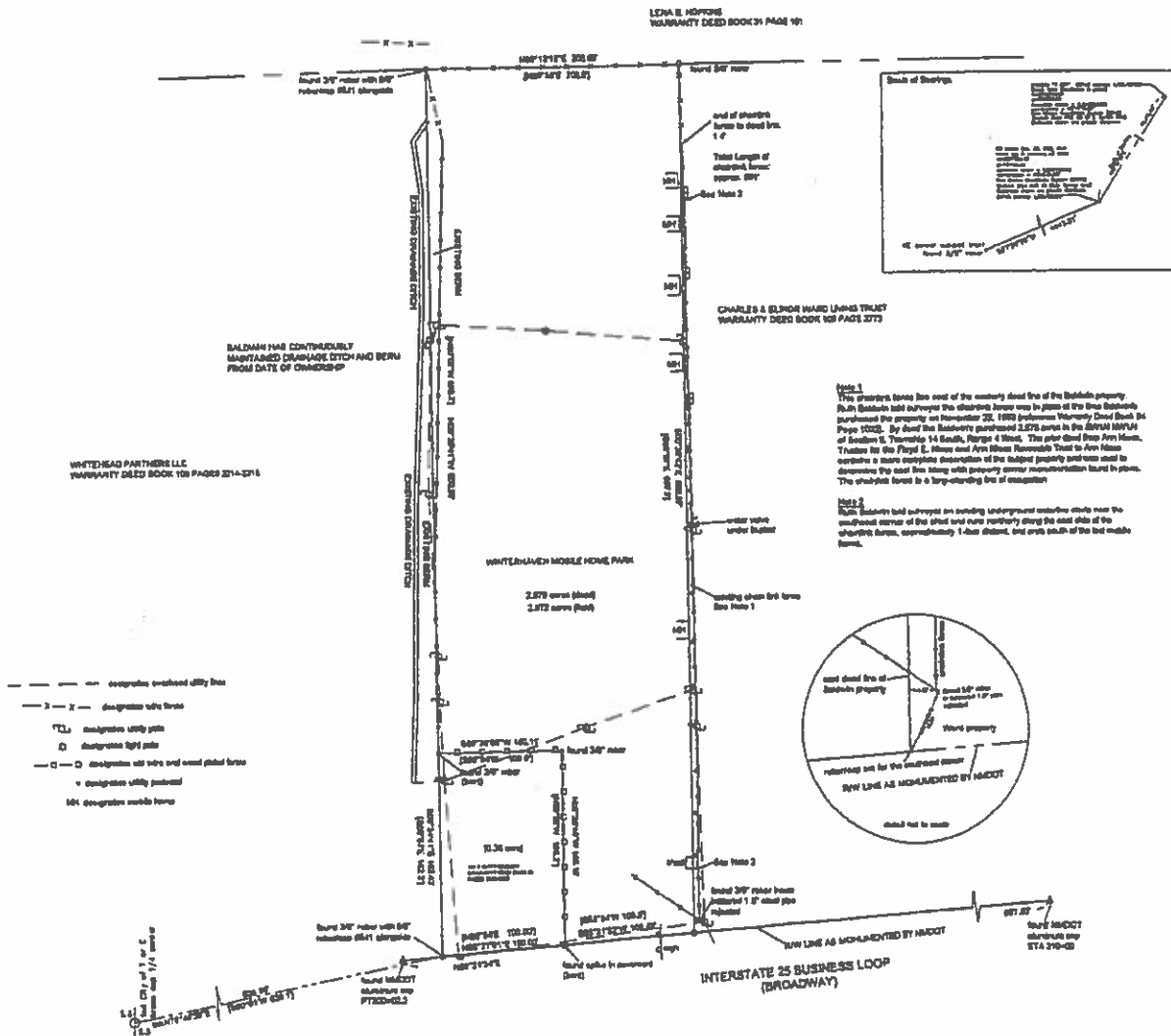
Amount Received: \$

Receipt No(s):

BOUNDARY SURVEY PLAT

A 2.975 ACRE TRACT SITUATE IN SECTION 5, TOWNSHIP 14 SOUTH, RANGE 4 WEST, NMPM
TRUTH OR CONSEQUENCES, SIERRA COUNTY, NEW MEXICO

Book 113
Page 2701



- designates overhead utility line
- designates water line
- designates utility pole
- designates light pole
- designates water and sewer pipe line
- designates utility pole
- designates mobile home

SURVEYOR'S CERTIFICATE
I, Jeff L. Richter, New Mexico Professional Surveyor No. 12304, do hereby certify that this Boundary Survey Plat and the actual survey on the ground upon which it is based were performed by me or under my direct supervision, that I am responsible for this survey, that this survey meets the minimum standards for Surveying in New Mexico, and that I am true and correct in the best of my knowledge and belief. I further certify that this survey is not a land subdivision or subdivision as defined by the New Mexico Subdivision Act and that this instrument is a Boundary Survey Plat of an existing tract of land.

Jeff L. Richter 1/24/2009
N.M.P.S. 012304



STATE OF NEW MEXICO
County of Sierra

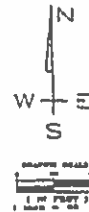
Jeff L. Richter
New Mexico Professional Surveyor No. 12304
1/24/2009

REFERENCE
Survey Plat Book 94 Page 1002 (Baldwin)
Survey Plat Book 98 Page 57-59 (Van Meter)
LPC 2002-0000004

This survey subject to easements, reservations, encroachments of record, and such matters as may appear on the ground.

Jeff L. Richter 1/24/2009

--- designates overhead utility line



RUCHTER LAND SURVEYING
814 BROADWAY, P.O. BOX 1048
TRUTH OR CONSEQUENCES, NEW MEXICO
870 04-1048

DATE: 1/24/2009
PROJECT: BOUNDARY SURVEY FOR COUNTY CLERK
Jeff L. Richter
Box 1, Truth or Consequences, NM 87004



STATE OF NEW MEXICO
Motor Transportation Police
Department of Public Safety

Permit Number: NM17040038

Single Trip Manufactured Home Permit

Permittee: GONZALEZ CONTRACTORS LLC

DECEIVE

AUG 28 2017

AFFIX AT LEFT REAR OF MANUFACTURED HOME

Permittee: GONZALEZ CONTRACTORS LLC
11 MANZANO STREET
MORIARTY, NM 87035
505-717-8022
Applicant: Jorge Gonzalez

USDOT: 2333863
Date Issued: 02/16/2017 03:33 PM
Date Effective: 02/20/2017
Date Expires: 02/24/2017



Load Description: Manufactured Home

Overall Width: 14'

Overall Height: 12'

Overall Length: 97' 10"

FOH: 0' 0"

ROH: 0' 0"

GVW: 80,000

Vehicle Year/Make: 1991 VOLVO

VIN Number: 4V1WLBD2MN637641

Power Unit Plate/State: WD114061 NM

Vehicle Type: TT

Origin: I-25, 2.8mi E of Old Albuquerque

Destination: I-25, 2.8mi W of Truth Or Consequences

Route Summary: ==>I-25, 2.8mi E of Old Albuquerque<==I-25==>I-25, 2.8mi W of Truth Or Consequences<==

Manufactured Home Information -

Year/Make: 1977 FKD

Owner: ALAMO DWELLINGS

Serial Number/VIN: FKD14684134

Address: 2335 S BROADWAY SPACE 28

TRUTH OR CONSEQUENCES, NM 87901

MH License Plate Number: _____

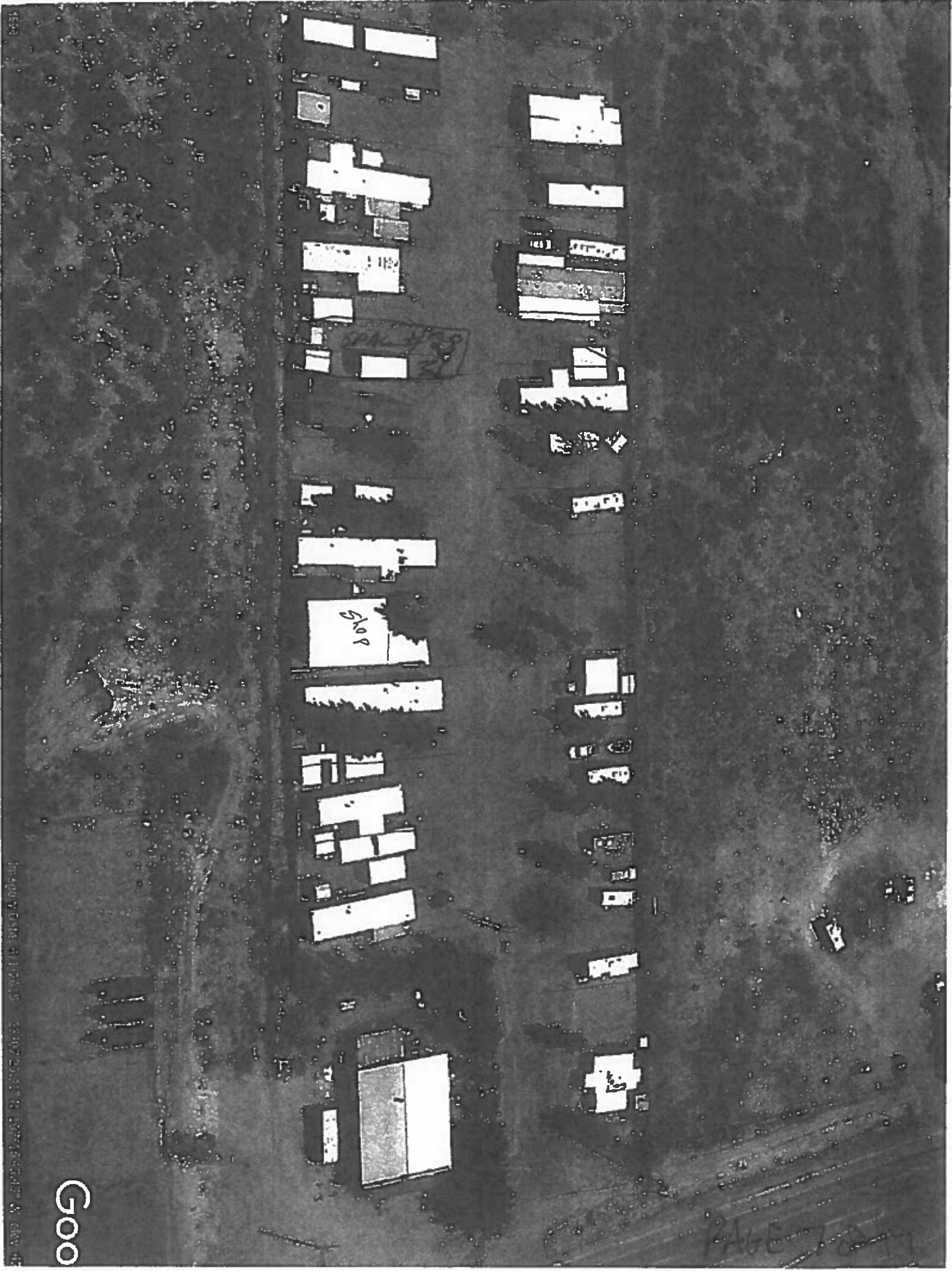
Left Eve Overhang: _____ Feet _____ Inches

Right Eve Overhang: _____ Feet _____ Inches

Tax Release Information -

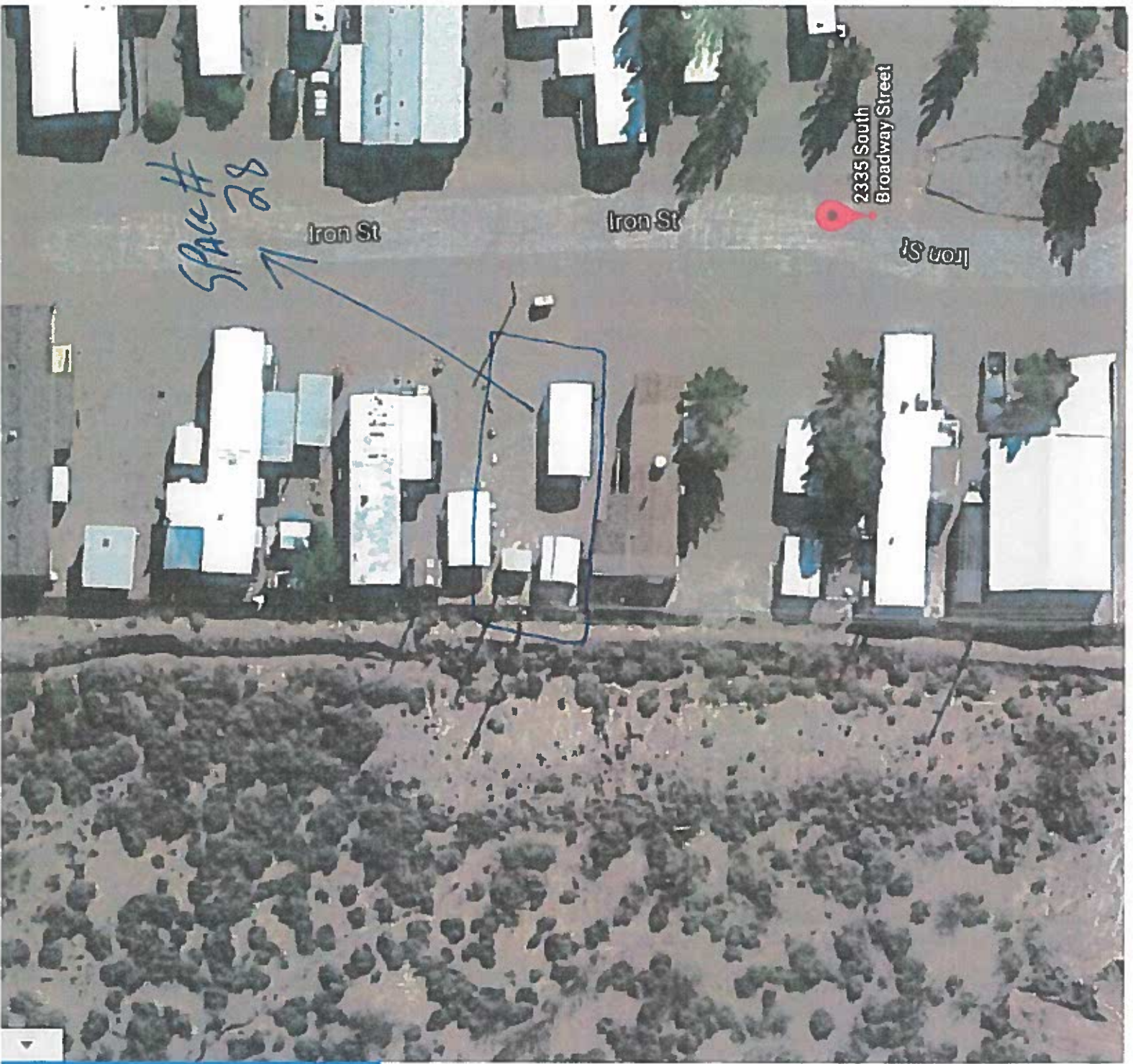
County of Origin Assessor: _____

City, County, State, Zip Code: _____



Go

Page 20



2335 South Broadway Street

adway St
uences, NM 87901

Directions

- NEARBY
- SEND TO YOUR PHONE
- SHARE

missing place

RECEIVED
AUG 28 2017



Alamo Dwellings <alamodwellings@gmail.com>

Winter Haven #28

4 messages

Alamo Dwellings <alamodwellings@gmail.com>

Tue, Apr 11, 2017 at 8:20 AM

To: RTravis@torcnm.org

Bcc: Jeremy <jeremypeck@comcast.net>, Jake Skinner <jake87107@hotmail.com>

Hello Mr. Travis...

Thank you for meeting with me yesterday.

Jeremy and I are working on the variance paperwork for #11 but in the meantime:

Did I understand you correctly that we don't have a problem with #28, the new one on the west side of the park?
Is it ok for us to proceed with utility hookup, skirting, and occupation of this home?

Thank you for your time.....

Jake Skinner
Alamo Investment LLC
dba Winter Haven Mobile Home Park
2335 S Broadway, T or C NM 87901
c. 505-263-4349
alamodwellings@gmail.com

Robbie Travis <rtravis@torcnm.org>

Tue, Apr 11, 2017 at 9:02 AM

To: Alamo Dwellings <alamodwellings@gmail.com>

yes

Robbie Travis

City of Truth or Consequences, NM
Building Inspector
575-894-6673 Work
575-740-0106 Mobile
RTravis@torcnm.org
505 Sims Street
Truth or Consequences, NM 87901
<http://www.torcnm.org/departments...>

From: Alamo Dwellings [mailto:alamodwellings@gmail.com]**Sent:** Tuesday, April 11, 2017 8:21 AM**To:** Robbie Travis**Subject:** Winter Haven #28

[Quoted text hidden]

RECEIVED
AUG 28 2017

Robbie Travis.vcf
2K

PAGE 9 of 17

Alamo Dwellings <alamodwellings@gmail.com>

Tue, Apr 11, 2017 at 9:10 AM

To: Robbie Travis <rtravis@torcnm.org>

Bcc: jeremyeck@comcast.net, jake87107@hotmail.com, isofs82oosp33@hpeprint.com

Thank you sir. We will get this home ready for occupancy right away. You are greatly appreciated.

Jake

Alamo Dwellings

9980 2nd St. NW

Albuquerque, NM 87114

alamodwellings@gmail.com

PO Box 10761

Albuquerque, NM 87184

MAILED
AUG 28 2017

On Apr 11, 2017, at 9:02 AM, Robbie Travis <rtravis@torcnm.org> wrote:

yes

<image001.jpg>

From: Alamo Dwellings [<mailto:alamodwellings@gmail.com>]

Sent: Tuesday, April 11, 2017 8:21 AM

To: Robbie Travis

Subject: Winter Haven #28

Hello Mr. Travis...

Thank you for meeting with me yesterday.

Jeremy and I are working on the variance paperwork for #11 but in the meantime:

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Is it ok for us to proceed with utility hookup, skirting, and occupation of this home?

Thank you for your time.....

Jake Skinner

Alamo Investment LLC

dba Winter Haven Mobile Home Park

2335 S Broadway, T or C NM 87901

c. 505-263-4349

alamodwellings@gmail.com

PAGE 10 OF 17

<Robbie Travis.vcf>

Alamo Dwellings <alamodwellings@gmail.com>
To: Vigil's Printer JJ Office <isofs82oosp33@hpeprint.com>

Tue, Apr 11, 2017 at 11:37 AM

Alamo Dwellings
9980 2nd St. NW
Albuquerque, NM 87114
alamodwellings@gmail.com
PO Box 10761
Albuquerque, NM 87184

RECEIVED
AUG 28 2017

Begin forwarded message:

From: Robbie Travis <rtravis@torcnm.org>
Date: April 11, 2017 at 9:02:36 AM MDT
To: Alamo Dwellings <alamodwellings@gmail.com>
Subject: RE: Winter Haven #28

yes

From: Alamo Dwellings [<mailto:alamodwellings@gmail.com>]
Sent: Tuesday, April 11, 2017 8:21 AM
To: Robbie Travis
Subject: Winter Haven #28

Hello Mr. Travis...

Thank you for meeting with me yesterday.

Jeremy and I are working on the variance paperwork for #11 but in the meantime:

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Thank you for your time.....

Jake Skinner

Alamo Investment LLC

PAGE 11 OF 17

8/28/2017

Gmail - Winter Haven #28

dba Winter Haven Mobile Home Park

2335 S Broadway, T or C NM 87901

c. 505-263-4349

alamodwellings@gmail.com

RECEIVED
AUG 28 2017

2 attachments

Robbie Travis

City of Truth or Consequences, NM

Building Inspector

575-894-6673 Work

575-740-0106 Mobile

RTravis@torcnm.org

505 Sims Street

Truth or Consequences, NM 87901

<http://www.torcnm.org/departments...>

image001.jpg

12K

 **Robbie Travis.vcf**
2K



Alamo Dwellings <alamodwellings@gmail.com>

Winter Haven Mobile Home Park

8 messages

Alamo Dwellings <alamodwellings@gmail.com>
 To: Jake Skinner <jake87107@hotmail.com>

Sun, Aug 6, 2017 at 8:37 AM

Dear Mr. Travis,

Good morning sir, this is Jeremy Peck co-owner of the Winter Haven Mobile Home Park. Yesterday I had a briefing with Mr. Jake Skinner my business partner on this property regarding a phone conversation you both had late last week.

I've taken the night to thoroughly pray and think over the situation before responding.

Let me respond with our prior dialogue and communication that we've had on this property. As you will recall in early April 2017 you made a field visit to our property to look at two mobile homes that were moved in number 11 on the east side of the property and 28 on the west side of the park. Shortly after that Mr. Skinner and I made a trip out to T or C to meet with you and your office. After our visit with you I believe you had another visit or two to our park with the fire chief. The second week of April we had phone conversation with you and a concession was made with you where you wanted us to work on paperwork for a variance on number 11 on the east side of the park but you had no problem with us moving forward on Space 28 on the west side of the park.

Following this phone conversation on Tuesday, April 11th, 2017 at 8:21 in the morning my business partner Mr. Skinner drafted an email to you.

In part the email stated: Did I understand you correctly that you don't have a problem with 28 the new one on the west side of the park is it okay for us to proceed with utility hookups, skirting, and occupation of this home?

Approximately 30 minutes later at 9:02 a.m. from your work email you responded back with "yes".

8 minutes later mr. Skinner responded thank you sir. We will get this home ready for occupancy right away. You are greatly appreciated.

Following your email we have spent a considerable amount of money after having your blessing to move forward to occupy this home. We have paid a utility contractor to put in the power pole, a utility contractor to run the water lines and gas lines which are all hooked up and pressurized waiting for inspection.

It's now my understanding that you're asking us to move it once again? Am I understanding your request correctly?

If I'm understanding that correctly I feel that decision is very unjust and unfair. I need you to realize that this is causing a huge financial impact on us and we need to be able to move forward on this project swiftly and have resolution. This was the reason that we drafted that early email in writing to have evidence of the agreement and now you're trying to revoke it. Jake and I are just two private individuals trying to make a very honest living having a very low rent to help the people in town of T or C.

I kindly await your response.

Best,
 Jeremy Peck

On Aug 3, 2017 10:06 AM, "Robbie Travis" <rtravis@torcnm.org> wrote:

Jake, I have to enforce our code that requires 15' separation from mobile home to mobile home. With that said I need you to move the mobile home on the west side of the park to meet that separation or you can apply for a variance through our city commission. Thank you

PAGE 13 of 17

ORIGINAL
AUG 28 2017

-----Original Message-----

From: Alamo Dwellings [mailto:alamodwellings@gmail.com]
Sent: Thursday, August 03, 2017 9:35 AM
To: Robbie Travis; Jeremy Peck; Jake Skinner
Subject: Winter Haven

Hello Robbie. Thank you for your call yesterday. Having had time to think about it I am confused and frankly disturbed by the way the conversation went.

In order to clear absolutely everything up and to make sure that there are no misunderstandings, could you please send me an email detailing everything that you intended to communicate to me. Please be very detailed. Please do not leave anything out, do not make any assumptions that I do or should understand what you are trying to tell me.

Thank you sir. You are much appreciated. Jake.

Alamo Investments LLC
alamodwellings@gmail.com
PO Box 10761
Albuquerque, NM 87184
505-750-8201

Alamo Dwellings <alamodwellings@gmail.com>

Sun, Aug 6, 2017 at 8:53 AM

To: jeremypeck@comcast.net, Robbie Travis <RTravis@torcnm.org>, Jake Skinner <jake87107@hotmail.com>

[Quoted text hidden]

Alamo Dwellings <alamodwellings@gmail.com>

Sun, Aug 6, 2017 at 9:09 AM

To: Robbie Travis <RTravis@torcnm.org>

Cc: Jake Skinner <jake87107@hotmail.com>, Jeremy <jeremypeck@comcast.net>

Dear Mr. Travis,

Good morning sir, this is Jeremy Peck co-owner of the Winter Haven Mobile Home Park. Yesterday I had a briefing with Mr. Jake Skinner my business partner on this property regarding a phone conversation you both had late last week.

I've taken the night to thoroughly pray and think over the situation before responding.

Let me respond with our prior dialogue and communication that we've had on this property. As you will recall in early April 2017 you made a field visit to our property to look at two mobile homes that were moved in number 11 on the east side of the property and 28 on the west side of the park. Shortly after that Mr. Skinner and I made a trip out to T or C to meet with you and your office. After our visit with you I believe you had another visit or two to our park with the fire chief. The second week of April we had phone conversation with you and a concession was made with you where you wanted us to work on paperwork for a variance on number 11 on the east side of the park but you had no problem with us moving forward on Space 28 on the west side of the park.

Following this conversation on Tuesday, April 11th, 2017 at 8:21 in the morning my business partner Mr. Skinner drafted an email to you.

In part the email stated: Did I understand you correctly that you don't have a problem with 28 the new one on the west side of the park is it okay for us to proceed with utility hookups, skirting, and occupation of this home?

Approximately 30 minutes later at 9:02 a.m. from your work email you responded back with "yes".

8 minutes later mr. Skinner responded thank you sir. We will get this home ready for occupancy right away. You are greatly appreciated.

Following your email we have spent a considerable amount of money after having your blessing to move forward to occupy this home. We have paid a utility contractor to put in the power pole, a utility contractor to run the water lines and gas lines which are all hooked up and pressurized waiting for inspection.

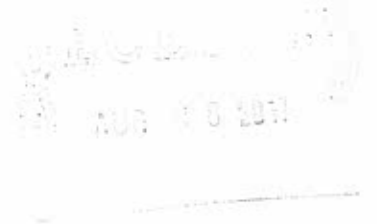
PAGE 14 OF 17

It's now my understanding that you're asking us to move it once again? Am I understanding your request correctly?

If I'm understanding that correctly I feel that decision is very unjust and unfair. I need you to realize that this is causing a huge financial impact on us and we need to be able to move forward on this project swiftly and have resolution. This was the reason that we drafted that early email in writing to have evidence of the agreement and now you're trying to revoke it. Jake and I are just two private individuals trying to make a very honest living having a very low rent in a mobile home park in T or C to help the people in town of T or C.

I kindly await your response.

Best,
Jeremy Peck
Alamo Investments LLC
PO Box 10761
Albuquerque, NM 87184
505-750-8201
alamodwellings@gmail.com



Robbie Travis <rtravis@torcnm.org>
To: Alamo Dwellings <alamodwellings@gmail.com>

Mon, Aug 7, 2017 at 9:52 AM

Jeremy, I do apologize for all the inconvenience this has caused, I thought I could make that decision to try and work with you guys but because this person took it to the commissioners I have to follow the code, but I did talk to the city manager about it and he believes that a variance would be reasonable. I can't guaranty anything, but I can process it as quick as possible to get it going. Thanks

Robbie Travis

City of Truth or Consequences, NM
Building Inspector
575-894-6673 Work
575-740-0106 Mobile
RTravis@torcnm.org
505 Sims Street
Truth or Consequences, NM 87901
<http://www.torcnm.org/departments...>

From: Alamo Dwellings [<mailto:alamodwellings@gmail.com>]
Sent: Sunday, August 06, 2017 9:10 AM
To: Robbie Travis
Cc: Jake Skinner; Jeremy
Subject: Winter Haven Mobile Home Park

Dear Mr. Travis,

[Quoted text hidden]

 **Robbie Travis.vcf**
2K

Alamo Dwellings <alamodwellings@gmail.com>
To: Robbie Travis <rtravis@torcnm.org>
Cc: jeremypeck@comcast.net, Jake Skinner <jake87107@hotmail.com>

Mon, Aug 7, 2017 at 9:57 AM

Mr. Travis,

PAGE 15 OF 17

Sir good morning. I appreciate your email response this morning. I would like to request the name of the city manager and his or her phone number along with the city attorney and their contact information please.

Thank you so much is this is extremely urgent that we move forward on this project and no additional time or financial delay is caused.

Best,
Jeremy Peck
[Quoted text hidden]

AUG 8 2017

Robbie Travis <rtravis@torcnm.org>
To: Alamo Dwellings <alamodwellings@gmail.com>

Mon, Aug 7, 2017 at 10:54 AM

Jeremy, here is the city managers number 575-894-6673, I am not really allowed to give out the city attorney's number but you can talk to the city manager about that. Thanks

Robbie Travis

City of Truth or Consequences, NM
Building Inspector
575-894-6673 Work
575-740-0106 Mobile
RTravis@torcnm.org
505 Sims Street
Truth or Consequences, NM 87901
<http://www.torcnm.org/departments...>

From: Alamo Dwellings [mailto:alamodwellings@gmail.com]
Sent: Monday, August 07, 2017 9:58 AM
To: Robbie Travis
Cc: jeremypeck@comcast.net; Jake Skinner
Subject: RE: Winter Haven Mobile Home Park

[Quoted text hidden]

 **Robbie Travis.vcf**
2K

Alamo Dwellings <alamodwellings@gmail.com>
To: Robbie Travis <rtravis@torcnm.org>, Jake Skinner <jake87107@hotmail.com>, Jeremy <jeremypeck@comcast.net>

Wed, Aug 9, 2017 at 10:44 AM

Mr. Travis,

Good morning sir, I had the pleasure of speaking with the county manager yesterday after a lengthy conversation he asked me to reach back out to you and work with you hand in hand and getting this variance paperwork filled out and submitted for the County Commission meeting late August.

Please walk Jake and I through this process what are the next steps what do we need to get to you? Please email us the variance application and tell me what steps are necessary to complete. Well we are doing this process would like to fill out the variance request for both the mobile homes that are currently moved into our Park.

I kindly await your response.

Jeremy Peck
[Quoted text hidden]

PAGE 16 of 17

Robbie Travis <rtravis@torcnm.org>

Wed, Aug 9, 2017 at 4:45 PM

To: Alamo Dwellings <alamodwellings@gmail.com>

Jeremy, I have been in a commission meeting most of the day and then on inspection until now, I will get you the paper work tomorrow. Thanks

Robbie Travis

City of Truth or Consequences, NM
Building Inspector
575-894-6673 Work
575-740-0106 Mobile
RTravis@torcnm.org
505 Sims Street
Truth or Consequences, NM 87901
<http://www.torcnm.org/departments...>

RECEIVED
AUG 28 2017

From: Alamo Dwellings [mailto:alamodwellings@gmail.com]**Sent:** Wednesday, August 09, 2017 10:44 AM**To:** Robbie Travis; Jake Skinner; Jeremy

[Quoted text hidden]

[Quoted text hidden]

 **Robbie Travis.vcf**
2K



F.2
+
G.2

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Request for Variances at the Winter Haven Mobile Home Park 2335 S. Broadway.
Space #11 to be closer than 15' apart, which the code requires, Sec. 11-14-5 A.
Standards. Minimum Distances MH to MH

BACKGROUND:

Mr. Skinner and Mr. Peck recently purchased Winter Haven Mobile Home Park and came into the office to speak with Robbie about what they could do with the park, and to make sure they were grandfathered in on how many spaces they had. Robbie provided them with the Municipal Code pertaining to M/H's. They proceeded to move 2 M/H's into the park that did not meet the standards for distances parking and Emergency Vehicle Access. Because the MH had been moved in and partially set, Robbie agreed to work with Mr. Skinner and Mr. Peck and allow #28 to remain since it was within 2 feet of the allowable distance.

Mr. Skinner and Mr. Peck were informed they would have to remove #11 due to its size and code violations, and they agreed. Space #11 is in violation of the Code by 5 feet from the neighbors, as well as blocking emergency access to the rest of the park (50 foot Radius turn around).

STAFF RECOMMENDATION:

Not approve space #11 because it is only 10' from the next M/H and it sticks out too far into the driveway and could block emergency access to the rest of the park.

SUPPORT INFORMATION:

Planning Application
Comprehensive Statement
Plans

Name of Presenter: Robbie Travis

Department: Community Development

Meeting date: 9/27/17

Winter Haven Mobile Home Park

SPACE # 11
PACKET



RECEIVED
AUG 28 2017

8/28/2017

To: City of Truth or Consequences
Planning and Zoning
505 Sims Street
T or C NM 87901

To whom it may concern,

This mobile home park was laid out as a 31 space park many years ago. The spacing between mobile homes is the current subject as we have moved a home into space #11 and it is only 11-ft from the home in space #12 instead of the current required 15-ft. We feel the spaces on this park should be recognized and grandfathered based on the requirements at the time the park was developed.

There have been homes in space #11 as per the google earth aerial photograph provided. By the time we purchased the park, the home had been removed and we then moved another home into that spot under the assumption that there was no reason to believe we were violating any requirements. (all moving permits were approved by the State of New Mexico)

If we were to move the home over 4.08-ft, it would require removal of a mature pine tree that adds to the aesthetic of the park. Also there is a gas stubout/meter immediately adjacent to that tree. It would have to be repositioned at considerable cost. Lastly, if this home were moved over it would result in us combining spaces #10 and #11 resulting in the permanent loss of revenue from one spot.

We respectfully request that you grant a variance of 4.08-ft. and allow the home currently in space #11 to remain.

Thank you for your time.

Alamo Investments LLC
DBA: Winter Haven Mobile Home Park
PO Box 10761
Albuquerque, NM 87184


Jake Skinner, member


Jeremy Peck, member



Alamo Investments LLC

PO Box 10761

Albuquerque NM 87184

Ph. 505-750-8201

8/23/2017

RECEIVED
AUG 28 2017

Alamo Investments LLC is the owner of property known as
Winter Haven Mobile Home Park located at
2335 S. Broadway St. Truth or Consequences, NM 87901.

Alamo Investments LLC is a New Mexico Limited Liability Company with
the following members:

Jack C. Jake Skinner (50%)

Jeremy Peck (50%)



BUILDING/PLANNING DEPARTMENT
Voice - (575) 894-6673 x 110 Fax - (575) 894-0363
E-mail Rtravis@torcnm.org
505 Sims Street - Truth or Consequences, NM 87901

(Staff Use Only)
Case No

RECEIVED
AUG 28 2017

Related Case(s)

Initial: _____

PLANNING APPLICATION FORM

The completeness of this application, which includes accompanying plans, shall be subject to the review of the Building/Planning Department. This application is used for a variety of application processes and not all items may apply to your project. If you feel a requirement is not applicable to your project, write "N/A." If you have any questions while completing this application please ask a member of the Planning Department for assistance. Incomplete applications will not be accepted (or the process may be delayed.) (PLEASE PRINT OR TYPE)

CHECK APPLICATION TYPE(S) REQUESTED:

- | | | |
|--|--|---|
| <input type="checkbox"/> Master Plan (\$100 + \$200/lot) | <input type="checkbox"/> Annexation (\$100 or \$10/ac. Max. \$250) | <input type="checkbox"/> CUP/SUP (\$25) |
| <input type="checkbox"/> Master Plan Amendment (\$200) | <input type="checkbox"/> Appeal (\$50) | <input type="checkbox"/> Prelim. Plat or Replat (\$100 + \$200/lot) |
| <input type="checkbox"/> Development Agreement (\$1,000) | <input checked="" type="checkbox"/> Variance (\$25) | <input type="checkbox"/> Final Plat (\$50) |
| <input type="checkbox"/> Change of Zone (\$100 or \$10/ac. Max. \$250) | <input type="checkbox"/> Zone Ordinance Amendment (\$250) | <input type="checkbox"/> Summary Plat (\$50) |
| | | <input type="checkbox"/> Plat Amendment (\$50) |

PROJECT SUMMARY:

Project/Business Name (if any):

SPAC #11

Project Description (add extra page(s) if needed):

Winter Haven Mobile Home Park

Property Address/Location:

2335 S. Broadway St. 87901

Assessor's Parcel Number(s):

3023079460224

Total Gross Lot Area:

Total Net Lot Area:

Existing Master Plan/Comprehensive Plan Designation:

Existing Zoning Designation:

Proposed Master Plan Designation (if applicable):

Proposed Zoning Designation:

Existing Uses and/or Structures on Site:

mobile home park

Surrounding Uses:

North:

open space

South:

Roadway

East:

Vacant lot

West:

County yard

APPLICANT/ REPRESENTATIVE Name:

REPRESENTATIVE(S):

Telephone No.:

Alamo Investments LLC
505.263.4349

Address: PO Box 10761

Fax No.:

City:

Albuquerque, NM

State:

NM

Zip Code:

87184

Contact Person:

JAKE SKINNER

E-mail Address:

alamodwellings@gmail.com

I certify under penalty of perjury that all the application information is true and correct:

Applicant's Signature:

Jake Skinner

Date:

8/23/17

PROPERTY OWNER/ AGENT Name:

Telephone No.:

Address:

Fax No.:

City:

State:

Zip Code:

Contact Person:

E-mail Address:

The City will provide the applicant with hearing notices and staff reports unless another party is identified.

Date/Time Received:

Received By:

Amount Received: \$

Receipt No(s):

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AUG 28 2017

APPLICATION

Applicant (name from Form A) ALAMO INVESTMENTS LLC Date 08/28/2017

Variance requested: VARIANCE OF 4.08 FROM SIDE SETBACK
FOR A MOBILE HOME

Are there deed restrictions pertaining to the property in question? ☐ Yes (copy attached) ☐ No

Two complete sets of plans attached? ☒ Yes ☐ No

Section 11-5-5C **SUBMISSION REQUIREMENTS** states that the application for variance shall be in the format stipulated by the City and shall contain plans and other information as required by the designated Zoning Administrator. The completed application for a variance shall be submitted to the City Clerk for placement on the agenda of the Planning and Zoning Board for a Public Hearing.

Applicant's Signature: 

Applicant checklist for documents required in support of this application:

- ☒ Payment of filing fee
- ☒ List of adjacent landowners
- N/A Copy of deed restrictions (covenants)
- ☒ Two sets of complete plans

(for official use only)

Date application received: _____ Date application accepted: _____

_____ Complete application received

_____ Fee paid

_____ Required publication completed

Form V page 2 of 2
Rev. 5/07

alamo Investments LLC

PLANNING APPLICATION FORM -page 2

I, Jake Skinner am the owner of the property described in this application and hereby authorize

Print Name

Self to act on my behalf on matters pertaining to this application.

Name of applicant or representative

RECEIVED
AUG 28 2017

Property Owner's Signature: Jake Skinner Date:

Note: If more than one owner, a separate page must be attached listing the names and addresses of all persons (if a corporation, list officers, and principals) having interest in the property ownership.

ARCHITECT Name: _____ Telephone No.: _____

Address: _____ Fax No.: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ E-mail Address: _____

ENGINEER Name: _____ Telephone No.: _____

Address: _____ Fax No.: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ E-mail Address: _____

APPLICANT'S AGREEMENT:

Processing of this application will not begin unless this application is complete and all signatures are provided: I, the undersigned as project Applicant or Representative of the project Applicant, hereby authorize the City of Truth or Consequences to review the submitted plans and specifications for this Application in accordance with the City of Truth or Consequences Municipal Code.

Applicant(s) acknowledge and agree that by filing this application City staff may enter upon the subject property and make examinations and surveys, provided that the entries, examinations and surveys do not unreasonably interfere with the use of the land by those persons lawfully entitled to the possession thereof. Applicant(s) certify under penalty of perjury that I am the legal owner(s) (all individual owners must sign as they appear on the deed to the land), Corporate Officer(s) empowered to sign for the corporation, Owner's Legal Agent having power of Attorney (a notarized Power of Attorney document must accompany this application), or the owner's authorized representative (include a notarized consent form from the owner).

Applicant(s) acknowledge and agree that I have included all of the required items and understand that missing items may result in delaying the processing of my application.

Applicant(s) agree to defend, indemnify and hold harmless the City of Truth or Consequences ("City") and its agents, officers, consultants, independent contractors and employees ("City's Agents") from any and all claims, actions or proceedings against the City or the City's Agents to attack, set aside, void, or annul an approval by the City, or the City's Agents concerning the Project (collectively "Claim"). The City shall promptly notify the Applicant of any Claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the Applicant of any Claim or if the City fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing in this paragraph shall obligate the City to defend any Claim and the City shall not be required to pay or perform any settlement arising from any such Claim not defended by the City, unless the settlement is approved in writing by the City. Nothing contained in this paragraph shall prohibit the City from independently defending any Claim, and if the City does decide to independently defend a Claim, the City shall bear its own attorney's fees, expenses of litigation and costs for that independent defense. The Applicant may agree to reimburse the City for attorney's fees, expenses of litigation and costs for that independent defense. Should the City decide to independently defend any Claim, the Applicant(s) shall not be required to pay or perform any settlement arising from any such Claim unless the settlement is approved by the Applicant.

IT IS SO AGREED:

Applicant's Signature

Date

Name of Applicant (Print)

Jake Skinner, member 8/28/2017 JAKE SKINNER, member
AK, member 8/28/17



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Google

Google Earth Aerial 4/18/17

Notes:

- This is an old google photo.
- the trailer in #11 was there before we bought the park.
- We moved a new trailer into that spot.

- If we move the trailer over we will lose a whole space forever.

→ There is a mature tree and a ~~gas~~ gas meter that would have to be moved

PAGE 7-8

#12

#11

#10

#9

AUG 8 2017



G.3

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Ordinance No. 690 for publication adding Section 2-210 providing a procedure for the recusal of City Board Members.

BACKGROUND:

Given that the question frequently arises as to when it is appropriate for a board member to recuse himself/herself, this proposed ordinance should provide clarity.

STAFF RECOMMENDATION:

Approve the ordinance for publication.

SUPPORT INFORMATION:

Final ordinance.

Name of Presenter: Jaime Rubin	Department: City Attorney	Meeting date: 09/27/2017
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ORDINANCE NO. 690

AN ORDINANCE OF THE CITY OF TRUTH OR CONSEQUENCES, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF TRUTH OR CONSEQUENCES,

BE AMENDED BY ADDING SECTION 2-210 PROVIDING A PROCEDURE FOR THE RECUSAL OF CITY BOARD MEMBERS

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS, OF THE CITY OF TRUTH OR CONSEQUENCES:

Section 1. That section 2-210 of the Code of Ordinances of the City of Truth or Consequences be added so that such section shall read as follows:

Sec. 2-210. Recusal.

Purpose and intent:

The City Commission recognizes that members of its various boards (sections 2-111 through 2-370) perform a valuable service to the City and such members generally serve in an advisory capacity.

The City Commission recognizes that its boards make important recommendations to the City Commission, and the City Commission desires to enact safeguards to ensure that the individual board members are able to conduct themselves without having improper considerations influencing their collective recommendations. Further, the City Commission finds it necessary to maintain the public perception that individual board members shall only use their positions to advance the public interest and not to take actions for the primary purpose of directly enhancing said board member's financial interests or financial position. Therefore using the Government Conduct Act described in 10-16-1 et seq. N.M.S.A (1978) as a guide, the City Commissioner hereby promulgates the following:

A member of any of the City boards (set forth in Section 2-111 through 2-370.3) shall recuse himself/herself from participating in a particular item on the agenda when 1) such member's participation would be for the primary purpose of directly enhancing the board member's financial interest or financial position, or 2) the totality of circumstances would create a reasonable public perception that such member cannot participate in that particular item in a fair and impartial manner. In such event, the member shall explain his/her reasoning prior to the item being discussed by the Advisory Board. The recusing member shall then remove himself/herself from the meeting room prior to the commencement of any discussion of that particular agenda item, and shall not vote on such item.

Section 2. All Ordinances or Resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This Repealer shall not be construed to revive any Ordinance or Resolution, or part thereof, heretofore repealed.

Section 3. This Ordinance shall take effect on the ____ day of _____, 2017.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2017.

CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

BY: _____
STEVE GREEN – Mayor

ATTEST:

Renee Cantin – City Clerk



H.1

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Appealing Resolution No. 15-16/17

BACKGROUND:

This resolution was passed in 12/13/16 we have met with the owners more than three times, giving them more time to get the property cleaned up and repaired or to sell the property to someone who can do this.

STAFF RECOMMENDATION:

To set a final deadline of 30 days and if not sold or repaired and cleaned up, the city will proceed with demolition.

SUPPORT INFORMATION:

- Appeal Letter
- Resolution 15-16/17

Name of Drafter: Robbie Travis	Department: Building Inspector	Meeting date: 9-27-2017
Email: rtravis@torcnm.org	Phone: 894-6673 ext. 330	



RESOLUTION NO. 15-16/17

A RESOLUTION FINDING THE PROPERTY AT 1308 TIN STREET, TRUTH OR CONSEQUENCES, NM, TO BE A DANGEROUS AND UNSAFE STRUCTURE AND AUTHORIZING DEMOLITION.

WHEREAS, the City of Truth or Consequences wishes to pursue the removal of dangerous and unsafe structures within the City, and;

WHEREAS, pursuant to City Code Chapter 4, Article IV Section 4-226 through 4-235 regarding dangerous and unsafe structures, City administration has identified the structure located in the Currey Lamiminger, Block 12, Lot 8 otherwise known as 1308 Tin Street to be a dangerous building. The violations include, but are not necessarily limited to, those items listed in the 10/20/16 Inspection Report, a copy of which is attached hereto as Exhibit 1.

WHEREAS, the City has followed all of the required procedures as follows:

1. Certified letters were sent stating the violation and action to be taken by the owner(s).
2. The certified letters were duly sent to all those known to have an interest in the property. The certified letters were claimed.
3. The owners were allowed 15 days from receipt of the letter to take action.
4. As no action had been taken after 15 days, the property was posted with a condemnation notice.
5. Commission action is now needed to approve the demolition of the structure(s), and;

WHEREAS, the City has followed all of the required procedures for notification as described in City Code for the removal of the structure(s).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF TRUTH OR CONSEQUENCES, NEW MEXICO:

The City of Truth or Consequences through its Governing Body agrees to direct staff to take all actions necessary to implement the removal of structure(s) at 1308 Tin Street, Truth or Consequences NM.

The City may also claim and record a lien for the reasonable cost of removal of the structure(s) and related materials, and associated legal fees plus interest.

Any entity who can establish an ownership interest in the above-described premises has the right to file an objection to this Resolution with the City Clerk's office located at 505 Sims, Truth or Consequences, NM. Said objection must be filed within ten (10) days of the Resolution being served upon those claiming an interest, or if no such person can be found, then ten (10) days from the date of publication. A copy of the Resolution shall also be posted on the premises. If a timely objection is filed, the City Commission will schedule a hearing to decide the merits of the objection.

PASSED, APPROVED AND ADOPTED THIS 13TH DAY OF December, 2016.

CITY OF TRUTH OR CONSEQUENCES

By 
Steve Green, Mayor



ATTEST


Renee Cantin City Clerk

Mr. Robbie Travis

12-27-16

I am the Owner of the
property located 1308 Tinst.

I have reviewed Resolution NO.
15-16-17.

I object to this Resolution
and request a meeting with
you at your earliest convenience
my cell # where I can be
reached after 3pm Monday -

Friday - (575) 740-6176
740-6173

RECEIVED
DEC 29 2016

(pl) @ 4:11 pm

Thank
you
Robbie
Travis



H.2

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Discussion/Action: Possible closure for the Pool in the Winter.

BACKGROUND:

At the September 13th meeting Millie McCloud spoke during public comment about a suggestion to close the pool during the winter to save money in order to do the resurfacing of the pool.

City Manager Fuentes recommended this item be placed on a meeting for Commission consideration.

STAFF RECOMMENDATION:

None.

Submitted by: Renee Cantin, City Clerk-Treasurer		Meeting date: 09/27/2017
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H.3

CITY OF TRUTH OR CONSEQUENCES

COMMISSION ACTION FORM

ITEM:

DISCUSSION/ACTION: APPOINTMENT OF A MINIMUM POOL REPRESENTATIVE.

BACKGROUND:

During the City Commission meeting on September 27th, the Commission approved Resolution No. 08 16/17 calling upon the Bureau of Reclamation to establish a minimum pool at Elephant Butte Lake. A similar resolution was adopted by Sierra County and City of Elephant Butte.

A Joint Powers Agreement (JPA) was established between Sierra County, City of T or C, City of Elephant Butte, and Village of Williamsburg to maintain a minimum pool at Elephant Butte Reservoir, for the citizens and visitors of Sierra County. JPA formalized the effort among the Sierra County entities to seek administrative and/or legislative support from state and federal agencies.

The JPA would be overseen by a Joint Powers Commission, comprised of representatives of the County, T or C, Elephant Butte, and the Village of Williamsburg. Pursuant to Section 4 of the JPA, each entity appoints a representative to serve on this JPC.

ACTION REQUESTED:

- Appointment of a City Commissioner or staff and alternate representative to serve on the Minimum Pool JPC.

Name of Drafter: Juan A. Fuentes	Department: City Manager	Mtg: 09/27/17
E-mail: jafuentes@torcnm.org	Phone: 575-894-6673 Ext. 320	



H.4

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Discussion/Update: Benefits to the Community for the new Law Enforcement Complex.

BACKGROUND:

Mayor Green will present this item.

STAFF RECOMMENDATION:

None.

Submitted by: Steve Green, Mayor

Meeting date: 09/27/2017



H.5

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Authorization to send a second letter of concern to Holloman Air Force Base for the F-16 proposed action area.

BACKGROUND:

Mayor Green will present this item. The Commission approved to send a letter to Holloman on August 9, 2017 and a Public Forum was held on August 13, 2017 at the Civic Center which was well attended. We would like to send another letter of concern regarding the proposed action area.

STAFF RECOMMENDATION:

None.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017



I.1

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Appointments to the Library Advisory Board.

BACKGROUND:

The vacancy was published on September 13, 2017. Only one application was received by Michael Bankson.

The current terms for Pat Freemyer and Carol Wilson were due to expire in 2017. The board is requesting that they both be reappointed for another term to expire 2020. And Isabel Court resigned and they are requesting the approval of Michael Bankson to fill the vacancy.

STAFF RECOMMENDATION:

Reappoint Pat Freemyer and Carol Wilson to the Library Advisory Board and appoint Michael Bankson to fill the vacancy until 2020.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017

FAX COVER SHEET

TOTAL (4) PAGES

TO: Renee Cantlin, City Clerk
City of Truth or Consequences
Fax: 575-894-7767

FROM: Pat O'Hanlon, Library Director
Truth or Consequences Public Library
Fax: 575-894-2068

DATE: September 21, 2017

The Library Advisory Board has directed me to request approval from the City Commission for the re-appointment of two Library Advisory Board members, Carol B. Wilson and Patty Freemyer, for three-year terms, ending June 30, 2020, and for the new appointment of Michael A. Bankson to a three-year term, also ending June 30, 2020. The three applications are attached.

Thank you.



City of Truth or Consequences
City Board Application

Name: CAROL B. WILSON
Address: PO BOX 1118
ELEPHANT BUTTE, NM 87935
Phone: (575) 744-6142

I am interested in serving as a member of Library Board.

My qualifications are:

I have been a library patron for over 20 years
I am an avid reader and I believe the library
is one of the vital services a municipality provides
for the community

Reason why you are interested in serving on this Board:

As a representative of my area of the
community I can provide input for the
community's needs

Additional Comments:

Signature: Carol B. Wilson



City of Truth or Consequences
City Board Application

Name:

Patty Freeman

Address:

1004 Parkway
TORC NM 87901

Phone:

575-894-3859

I am interested in serving as a member of The Library Board.

My qualifications are:

I enjoy the library. I would
like to help make it an important
part of the lives of the residents
of Torc

Reason why you are interested in serving on this Board:

avid reader

Additional Comments:

Signature:

Patty Freeman



City of Truth or Consequences
City Board Application

Name: MICHAEL A. BANKSON
Address: 111 N. Maguolia St.
TORC, NM 87901
Phone: 575-520-6996

I am interested in serving as a member of Library Board.

My qualifications are:

Past library board member in T or C
I am an avid reader, and use the library very often
High school Graduate, worked in the school library
Former TORC City employee '94-2000

Reason why you are interested in serving on this Board:

I believe an excellent library is very important in
the community.
I believe children should be exposed to reading and libraries.

Additional Comments:

I am a volunteer driver for the VA/DAV, I am
also a member of the DAV AUX

Signature: M/A Bank 8/16/17



I.2

**CITY OF TRUTH OR CONSEQUENCES
COMMISSION ACTION FORM**

ITEM:

Night Sky Friendly Lighting Program.

BACKGROUND:

Commissioner Clark will present this item.

STAFF RECOMMENDATION:

None.

Submitted by: Renee Cantin, City Clerk-Treasurer

Meeting date: 09/27/2017

Kath



Shelby

Consumer Guide to Night Sky Friendly Lighting

Night Sky Program

New Mexico Heritage Preservation Alliance
www.nmheritage.org

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Feb., 2005

Introduction

A hundred years ago, the night sky was filled with stars that inspired wonder and awe in all who saw them. Maybe you have had a similar experience - watching a meteor shower or glimpsing a “falling star” - that reminded you of how priceless a resource our starry sky is. The continuity of the night sky is inspiring - it is one of the few constants in the human experience. When you look at the natural landscape of the earth, there are very few places that look the same as they did five hundred years ago. When you look at the night sky, you are looking at the same sky your great-great-grandfather did. Unfortunately the night sky most of us see now is a lot less dark than it used to be. Too much and inefficient outdoor lighting has caused an epidemic of light pollution that blots out the stars and threatens our nighttime environment. The dark skies of our ancestors are disappearing and the problem is only getting worse. Soon there will be few people left who even remember what a pristine night sky looks like.

The good news about light pollution is that it is easy to fix - the biggest problem is lack of awareness. Once people are aware and willing to help, there are easy and responsible alternatives. It is one of the few environmental issues where the damage done by humans can be undone. It is difficult to reverse the effects of pollution and impossible to revive an extinct animal, but if everyone were to follow the night-sky friendly guidelines, the problem would evaporate overnight. And don't think that one person can't make a difference - researchers have found that a single street lamp can affect the view of the night sky for an observer up to 200 km or approximately 124 miles away. So get educated and get involved! This is growing threat to our environment and our quality of life that has some very simple solutions.

Light Pollution and Its Consequences

Light pollution, is caused by misdirected, unshielded, excessive, or unnecessary night lighting. There are numerous negative effects including sky-glow, glare, light trespass, disrupted eco-systems and energy waste. Very few areas of the world are exempt from the harmful consequences of light pollution and it is growing rapidly. While nighttime lighting is often essential, too much and the wrong kind causes many problems.

Sky-glow is the brightened sky over towns and cities. It is prevalent in urban areas and it destroys our view of the universe. This type of light pollution causes problems for astronomers, and over two-thirds of Americans can no longer see the Milky Way from their homes.

Glare is a common problem caused by unshielded or overly bright lights. Glare creates deep shadows for people to hide in and interferes with the vision of drivers and pedestrians. Blinding streetlights are annoying and can be dangerous.

Light trespass is intrusive lighting that trespasses on our property. Light that spills beyond our neighbors property into our yard and windows can be more than a common annoyance. Light trespass can have harmful effects on health. People need darkness to sleep - too much artificial light can disrupt nocturnal patterns and affect the immune system.

Cultural and natural resources are also damaged by light pollution. The night sky has inspired artists, poets and musicians for hundreds of years - think of Van Gogh, Robert Frost and Mozart. It has played a part in numerous religions over the centuries as well as cultural myths and lore. But for most of us, the dark skies of our ancestors have disappeared. Stars that a century ago glowed brightly in the sky have now

all but disappeared. Excessive artificial light disrupts plant and animal life and can be dangerous for many birds. The night sky is truly the world's largest National Park. Would you carelessly throw your trash out the window at Yosemite or Yellowstone? Let's take responsibility for our environment and make choices that sustain our beautiful night skies.

Energy waste and the economic costs of light pollution are staggering. It is estimated that Americans spend over two billion dollars a year on unused or unneeded light. Wasted light does nothing to promote safety. Negative consequences of producing electricity include air pollution and acid rain. By eliminating wasteful use of light we can reduce our electricity needs and air pollution.

Quality lighting is the key. Let's put light to work for us rather than wasting it.



Night sky as seen without light pollution.



Photograph taken in same area with lights on. Sky glow and glare block out our view of the stars.

N.M.
LAW

New Mexico Night Sky Protection Act

As a result of advocacy by New Mexico Heritage Preservation Alliance, on April 6, 1999, Governor Gary Johnson signed the Night Sky Protection Act into law, in an effort to regulate outdoor lighting to “preserve and enhance the state’s dark sky while promoting safety, conserving energy and preserving the environment for astronomy”. Since that time, there have been annual official “Dark Sky Appreciation Night”(s) in New Mexico, a reminder to citizens to turn out their lights, go outside and enjoy an unspoiled night sky. One of the first laws of its kind in the United States, the Night Sky Protection Act makes dark skies a priority in New Mexico for its history, culture, industry and economy. The text of the law is as follows:

74-12-1

Short Title

This act may be cited as the “Night Sky Protection Act”.

74-12-2

Purpose

The purpose of the Night Sky Protection Act is to regulate outdoor night lighting fixtures to preserve and enhance the state’s dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

74-12-3

Definitions

As used in the Night Sky Protection Act:

A.

“outdoor lighting fixture” means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights and floodlights, whether for architectural lighting, parking lot lighting, billboards or street lighting; and

B.

“shielded” means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

74-12-4

Shielding of Outdoor Light Fixtures

All outdoor lighting fixtures installed after January 1, 2000 shall be shielded, except incandescent fixtures of one hundred fifty watts or less and other sources of seventy watts or less.

74-12-5

Nonconforming Light Fixtures

A.

In addition to other exemptions provided in the Night Sky Protection Act, an outdoor lighting fixture not meeting these provisions shall be allowed, if the fixture is extinguished by an automatic shutoff device between the hours of 11:00 p.m. and sunrise.

B.

No outdoor recreational facility, whether public or private, shall be illuminated after 11:00 p.m. except for a national or international tournament or to conclude any recreational or sporting event or other activity conducted, which is in progress prior to 11:00 p.m. at a ballpark, outdoor amphitheater, arena or similar facility.

74-12-6

Use of mercury vapor lighting fixtures

No new mercury vapor lighting fixtures shall be sold or installed after January 1, 2000.

74-12-7

Exemptions

A.

The following are exempt from the requirements of the Night Sky Protection Act:

- 1) Outdoor lighting fixtures on advertisement signs on interstates and federal primary highways;
- 2) Outdoor lighting fixtures existing and legally installed prior to the effective date of the Night Sky Protection Act; however, when existing lighting fixtures become unrepairable, their replacements are subject to all the provisions of the Night Sky Protection Act;
- 3) Navigational lighting systems at airports and other lighting necessary for aircraft safety; and
- 4) Outdoor lighting fixtures that are necessary for worker safety at farms, ranches, dairies, feedlots or industrial, mining or oil and gas facilities.

B.

The provisions of the Night Sky Protection Act are cumulative and supplemental and shall not apply within any county or municipality that, by ordinance or resolution, has adopted provisions restricting light pollution that are equal to or more stringent than

the provisions of the Night Sky Protection Act.

74-12-8

Construction Industries Division; Duties

The construction industries division of the regulation and licensing department shall review the outdoor lighting provisions in the uniform building codes used in New Mexico and make recommendations for appropriate changes to comply with the provisions of the Night Sky Protection Act and shall permit and inspect, to the standards set forth in the Night Sky Protection Act, all construction of and on state-owned buildings that is subject to permit and inspection under the Construction Industries Licensing Act [Chapter 60, Article 13 NMSA 1978].

74-12-9

Costs of Replacement; Recovery

If public utilities are required pursuant to the provisions of the Night Sky Protection Act or by local government ordinances to accelerate replacement of lighting fixtures, the cost of such replacement shall be included in rates approved by the public regulation commission.

74-12-10

Violations; Penalty

Any person, firm or corporation violating the provisions of the Night Sky Protection Act shall be punished as follows:

A.

For a first offense, the offender may be issued a warning;

B.

For a second offense or offense that continues for thirty days from the date of the warning, twenty-five dollars (\$25.00) minus the replacement cost for each offending fixture.

74-12-11

Enforcement

In the exercise of any of the powers and duties conferred by law, a governing body of a political subdivision of the state may enforce the provisions of the Night Sky Protection Act.

While the law is not as stringent as many had hoped for, it provides a framework that supports education and advocacy efforts. More than anything, it has brought the issue of light pollution to the attention of the general public and made it a part of the public consciousness. Most building professionals now realize that responsible lighting must be a part of their work and hopefully in time the law can be strengthened and accepted as a win-win situation for all involved.

Local Ordinances

In addition to the state law, many concerned municipalities have passed local ordinances that place further restrictions on the use of outdoor lighting. Many cities in New Mexico, including Albuquerque, Las Cruces, Santa Fe, and Taos now benefit from local ordinances or more detailed zoning codes. There are often more resources available on a local level for enforcement and community support as well. Community activists have initiated most local ordinances and you can work for the same in your community. Usually it is only one or two people with a little general support who get ordinances passed. One person can make all the difference. The Night Sky Program at New Mexico Heritage Preservation Alliance can provide you with sample ordinances, recommended practices and information.

Solutions

Night Sky Friendly Lighting

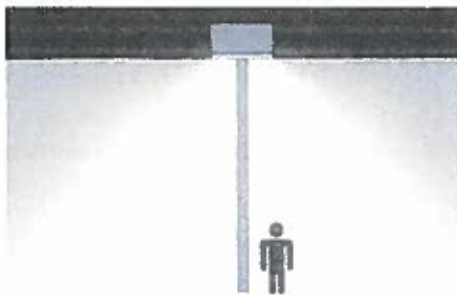
Is:

- ▣ *Shielded*
- ▣ *Properly Aimed*
- ▣ *Off by 11:00 PM or*
- ▣ *On a Motion Sensor*

Uses:

- ▣ *Wattage that Matches Need*
- ▣ *Energy Efficient Sources*

All lights should be fully shielded or cutoff. This means no light is emitted above a horizontal plane and no light trespasses into places where it is not needed.



*Light is shining down where it is needed
and not spilling up into the night sky.*

Add a shield to existing spotlights and floodlights. Light shields will direct the light toward the ground. Shielded light fixtures use energy more effectively and efficiently, reduce hazardous and annoying glare, prevent unwanted light trespass onto neighboring properties and lessen sky glow, which obliterates our view of the stars.



Change this dusk to dawn fixture to...



Shielded Lights

Point lights downward. Installation and positioning are very important. Place fixtures under overhangs when possible. Any fixture positioned too high can splash light far beyond the boundaries of the targeted area. The perfect scenario is uniformity of light over the illuminated area while minimizing the light trespass.



Change this upward pointed light to ...



one that is pointed downward.

Turn off the light when you are done. All outside continuous lighting should be turned off by 11:00 PM. If you attach a motion sensor, average use ends up at less than an hour's worth of light per night. This can save over \$212 per year.

Match the light to your needs. Check your site at night to evaluate how much, if any, lighting is needed. If you need to purchase fixtures, you can save money by using a lower wattage. A forty or forty-five watt porch light is sufficient to see at night and actually prevents human eyes from being blinded by glare. Limit floodlights to wattages of 60 or less.

Lighting Modification and Installation

Evaluate First

1. *Does it need to be lit?*
2. *For what purpose?*
3. *To what lighting level?*
4. *Do any of the fixtures emit light above the horizontal plane?*
5. *Is light trespass an issue?*
6. *Is glare an issue?*

Lighting Defined

You have choices. Which light source you choose is important because some types may be more effectively filtered out at the telescope than others. If you are purchasing a new light, low-pressure sodium (LPS) is the preferred source, as its nearly monochromatic yellow light can be easily filtered out. Different lamps have specific qualities, better color rendition, for example. Once you know what your needs are, you can choose the best light for the job. If you are correcting existing lighting, there are a variety of shields available.

Low-Pressure Sodium (LPS) lamps: most energy efficient light source available. LPS has a monochromatic yellow light and it is a good choice if wildlife safety is an issue. It emits light at a wavelength where the human eye is most efficient. It is good for residential street lighting, parking areas, and outdoor security where color rendition is not an issue.

Incandescent Bulbs and Quartz Halogen: low efficiency. Acceptable if shielded and used for low wattage applications. Consider occupancy sensor activation. Should not be used for most outdoor lighting applications. Glare can be a problem with quartz halogen.

High-Pressure Sodium (HPS) lights: energy efficient. Usually of a higher wattage and are good for major roadways, parking lots and other commercial streetlights or sports parks.

Metal Halide (MH): is a white light source used where true color rendering is important. Often too high in wattage and result in harsh, overlit environment.

Fluorescent lights: emit a great deal of ultraviolet light that is useless for illumination but damaging to the detectors used by astronomical observatories. Rarely used in outdoor lighting. If used outdoors, wattages should be under 45.

Mercury lamps (MV): Since 2000, it has been illegal to sell or install mercury vapor lamps in New Mexico. Not an economic or ecologically aware light source by today's standards.

There are many things we can do to reduce light pollution. Technology exists to do so in an economic fashion. Lighting manufacturers have responded to the crisis of light pollution and there are numerous night sky friendly lights available. For specific products, please see the sponsors at the end of the booklet or check <http://www.nmheritage.org> for an updated listing of night sky friendly products.

Service Station and Parking Area Lighting

Many gasoline pump islands are being illuminated at three to four times the illumination level used a few years ago. This is not needed for safety, security or visibility. This excessive level of lighting causes blinding glare for oncoming drivers and pedestrians and light trespass onto neighboring properties.

Appropriate lighting for service stations and parking areas should be no more than ten times the illumination level of the surrounding area. Glare can be reduced by using fixtures that are completely recessed up into the pumping island canopy. Lighting fixtures serving parking areas should be using fully cut off fixtures. Preferred light sources are High Pressure Sodium (HPS) and Metal Halide (MH) in the appropriate wattage.



An example of good gas station lighting.

How to Talk to Others About Light Pollution

Once you have fixed your house and your property to be “night-sky friendly”, it is time to spread the word to others. Remember that the biggest problem with light pollution is *lack of awareness*. Before you approach your neighbor or your local car lot, be sure you are well prepared.

- Bring copies of Night Sky Program literature with you.
- Make a visit to your local hardware or home store and know what night-sky friendly fixtures are available and their cost.
- See if there is a local ordinance in place in your community and what it specifically requires.
- Identify the enforcement authority if there is one.
- Most importantly, be positive and receptive to your neighbor's point of view. They may have security concerns or financial issues or they just might not be familiar with the issue of light pollution.

Calmly explain to them your concerns and suggest some possible alternatives. If they are willing, take them on a tour of the neighborhood one night and point out the differences between “good” and “bad” lights - there is nothing more convincing than a personal experience. Always remember that *change does not happen overnight*. You may have to speak to them several times and it may take the involvement of the community to produce the response you desire.

One of the most common arguments against responsible lighting is the issue of security. People wrongly assume that the brighter the light, the safer they are. The problem with many security lighting systems is that while it may make us feel safer, it does not actually make us any safer. Most 175-watt dusk-to-dawn security lights are counterproductive to good vision and can in fact prevent us from seeing criminals and other dangers. No lighting system can ensure security but poor lighting is not the answer.

Background on the Night Sky Program

The New Mexico Heritage Preservation Alliance (NMHPA) is a statewide, private non-profit organization that promotes, protects and advocates for New Mexico's heritage. In 1999, the NMHPA declared the New Mexico Night Sky as one of the state's "Most Endangered" cultural resources. Concerned about the effects of light pollution on the historically pristine New Mexico night sky, they began advocating for its protection. Since that time, the NMHPA has continued to play an important role in the statewide effort to inform the public about the negative consequences of light pollution. The Night Sky Program is dedicated to preventing the loss of the starlit skies that have inspired New Mexicans for generations.

Resources and Sponsors

This booklet is brought to you by the Night Sky Program of the New Mexico Heritage Preservation Alliance. For more information about the organization and the Night Sky Program and other resources please visit www.nmheritage.org or call 505.989.3696.

The International Dark Sky Association (IDA) is based in Tucson, Arizona and is a leading resource for a variety of issues concerning dark skies. They can be contacted at www.darksky.org or 520.293.3198.

The Construction Industries Division (CID) of the State of New Mexico is responsible for the enforcement of the Night Sky Protection Act. They can be contacted at 505.476.4700.

The following contributors have made this booklet possible:

International Dark Sky Association, Tucson

Thaw Charitable Trust, Santa Fe

The Robert Moody Foundation, Santa Fe

Kells & Craig Architects, Albuquerque

Sports Lighting Services Inc., Albuquerque

Resource Lighting Inc., Albuquerque

New Mexico Heritage Preservation Alliance, Santa Fe

McCune Charitable Foundation, Santa Fe

New Mexico State Parks



Photo by David Miller

*An unobstructed view of the beautiful night sky.
A truly cherished part of our cultural heritage.*



New Mexico Heritage Preservation Alliance
P.O. Box 2490, Santa Fe, NM 87504

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