

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, MAY 8, 2019

A. CALL TO ORDER

The meeting was called to order by Mayor Sandra Whitehead 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. Sandra Whitehead, Mayor
Hon. Kathy Clark, Mayor Pro-Tem
Hon. Rolf Hechler, Commissioner
Hon. Paul Baca, Commissioner
Hon. George Szigeti, Commissioner

Also Present: Morris Madrid, City Manager
Renee Cantin, City Clerk-Treasurer

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

2. SILENT MEDITATION:

Mayor Whitehead called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Whitehead called for Commissioner Baca to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Commissioner Szigeti moved to approve the agenda removing Item C.2 which will be rescheduled. Commissioner Hechler seconded the motion. Motion carried unanimously.

Mayor Pro-Tem Clark asked to pull Item No. 1 from Consent.

C. PRESENTATIONS:

- 1. Presentation of a Mayor's Commendation to Joannie Griffin who was chosen as one of three of the 2019 Inductees class New Mexico**

Tourism Hall of Fame at the 2019 New Mexico True Governor's Conference on hospitality and tourism on April 30, 2019:

Mayor Whitehead presented the Mayor's Commendation to Joannie Griffin who was chosen as one of three of the 2019 Inductees class New Mexico Tourism Hall of Fame at the 2019 New Mexico True Governor's Conference on hospitality and tourism on April 30, 2019.

2. Proclamation naming April 14, 2019 as our State Envirothon Champion Hot Springs High School Scat Cats Day.

Item was removed to be rescheduled.

3. Proclamation naming May as Poppy Month for the American Legion Auxiliary.

Mayor Whitehead presented the American Legion Auxiliary with a proclamation naming May as Poppy Month.

4. Proclamation for the 50th Annual Municipal Clerk's Week from May 5th to May 11th, 2019:

Mayor Whitehead presented the City Clerk's Office with a proclamation for the 50th Annual Municipal Clerk's Week.

5. Proclamation for National Police Week from May 12th - 18th, 2019 and National Peace Officers' Memorial Day on May 15th, 2019:

Mayor Whitehead presented the Police Department with a proclamation for National Police Week and National Peace Officers' Memorial Day.

D. COMMENTS FROM THE PUBLIC:

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

- 1) He previously submitted a proposal for the use of the Lee Belle Johnson Center with a rate higher than any other proposal. He received a letter in response on April 25th, which he read for the record. He stated this was a slap in the face folks, he went through a lot of research for this and gave some details on those findings. This is not a tourist industry, you are supposed to be looking out for the welfare of the people. You should hang your heads in shame.

Ron Pacourek addressed the Commission related to:

- 1) He attended the meeting at the High School about the roundabouts and the building was full. After the presentation, there was only one person who was in favor of any of the roundabouts. They don't have federal funding for the roundabouts and their presentation was weak as far as he's concerned. The

presentation showed that there were 31 accidents between 2011 and 2013. They didn't include the accidents that occurred in 2014-2017. They then said that there was a speeding zone by Pizza Hut and the Citizens Bank. Then it was asked if that is a speeding zone, and if so, isn't the NMDOT responsible for the speed limit? They deem 40 mph to be a safe speed for the blind curve coming out of New School Road. One of the Moose Officials asked about the survey for installing a traffic light in that area, and NMDOT responded that the study showed there was not enough traffic to add a traffic light in that area, but yet, they got federal money to put in two roundabouts.

Mrs. DeMarino, MainStreet Truth or Consequences addressed the Commission related to:

- 1) She invited everyone to the Second Saturday Art Hop which takes place this Saturday at 6pm.
- 2) They have had 20 people attend the Customer Service Training sessions, and 30 more have signed up. Information for the training is in the Sentinel and on the MainStreet Facebook Page.
- 3) Thursday, May 23rd at the Spaceport Visitors Center will be the Town Hall Meeting. The meeting will encompass the Foch St. Downtown Project, Live/Work, and Commercial Chains in the Downtown area.

Randall Lawson, 701 Poplar St. addressed the Commission related to:

- 1) He is here to commend the Commission on behalf of the Friends of the Pool. It's the first time they don't feel like they are getting their heads beat against the wall. They feel the support that has been given to them and he thanked Mayor Whitehead and the Commission for following her lead, and City Manager Madrid as well. He wants them all to know how deeply they appreciate each and every one of them. Thank you so much.

E. RESPONSE TO PUBLIC COMMENTS:

City Manager Madrid responded to the comment about the pool and commended Kyle Blacklock and Tammy Gardner for their hard work at the pool.

Mayor Pro-Tem Clark also thanked Kyle Blacklock and Tammy Gardner for the pool and thanked Linda DeMarino for setting up the Town Hall Meeting.

Commissioner Szigeti reported he has heard great reviews about the Customer Service Training. He thinks it's an important part of our city. He also responded to Mr. Fenn's comment about nothing being done for the people. This community does more for its citizens with the facilities that are provided; the Pool, the Golf Course, the Senior Center, and the Senior Meal Site. There is so much done for the people of this town, and to base that statement solely on the use of one building is pretty low.

F. CONSENT CALENDAR:

- 1. City Commission Regular Minutes, April 10, 2019**
- 2. City Commission Regular Minutes, April 24, 2019**
- 3. Library Advisory Board Minutes, April 29, 2019**
- 4. Golf Course Advisory Board Minutes, March 6, 2019**
- 5. Accounts Payable, April 2019**

Item No. F.1 City Commission Regular Minutes, April 10, 2019 were pulled from the Consent Calendar for further discussion.

Mayor Pro-Tem Clark wanted to clarify an error that was stated at the April 10th meeting. She referred to page 14 of the minutes where she stated we have put somewhere between \$18,000 to \$20,000 into the Wastewater... what she meant to say was we have put \$18 million to \$20 million into our infrastructure.

Mayor Pro-Tem Clark moved to approve the April 10, 2019 Minutes. Commissioner Szigeti seconded the motion. Motion carried unanimously.

Commissioner Hechler moved to approve the remainder of the consent calendar as noted. Commissioner Szigeti seconded the motion. Motion carried unanimously.

G. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Public Hearing/Discussion/Action: Request for a Plat Amendment at 910 N Date Street for Michael Merrel of Monaco Properties, Inc., pursuant to Chapter 15, Sec. 15-17 - Amendment of plats. Morris Madrid, City Manager:**

City Manager Madrid reported that the purpose of this item is to discuss and approve, or deny, a request for a Plat Amendment at 910 N. Date Street. This is pursuant to Chapter 15, Sec. 15-17- Amendment of plats, and the applicant is Michael Merrel of Monaco Properties. This is a simple amendment that re-draws the boundary. There are no zoning issues or right of way issues, and we have not received any protests. This does involve a bigger issue with the schools, and the idea is to re-draw the boundary in order for the schools to acquire the property. There is another use of a different piece of property that is contingent upon this transaction.

Cindy Torres, Merrel Representative, also reported that the T or C School District has made an offer on one of the buildings for their Central Services in addition to a building on the corner for their Maintenance Department, but they couldn't move their entire Central Services without a warehouse. So Mr. Merrel who is the property owner of the said property, agreed to use a garage on the property as a warehouse.

Battershell process was used for this hearing.

City Clerk Cantin did the swearing in for the following people:

- **Randy Piper**
- **Michael Merrel**
- **Cindy Torres**
- **Sam Jones**
- **City Manager Madrid**

Opponents:

Chuck Jones brother of Sam Jones (owner of Raymond's Lounge) stated that they are aware of the liquor license rules of liquor license establishments being in proximity of public schools or similar churches or schools. They're concerned that they would not be able to extend the building when they get to a point where they want to expand Raymond's Lounge, because it would then be closer to a school property. They would like to have a permanent waiver in place stating that they can extend their building. They understand that they are grandfathered in, and they can sell the building and the property grandfathered in, but they need the ability to expand the building.

City Manager Madrid noted that the language in the Alcohol and Beverage Control Act refers to a proximity to schools, not school property. He also noted that he does not believe that the city can issue a permit based on a possible use of property.

Chuck Jones responded that they have met with the Liquor Board and Deputy Director in Santa Fe. He is only responding to what the Deputy Director told them they could, and couldn't do. They understand the school situation, but they don't know what the long term plan for the building is, and down the road that school building could be used for children of some sort, and there are going to be families and children in and out of that building because it is going to be an Administration Building. So because of that, they have these concerns.

Mayor Whitehead asked Commissioner Baca if he has any comments.

Commissioner Baca stated that he believes the larger building on right side is going to be the Administration Building.

Commissioner Szigeti said, as the City Manager pointed out, the liquor laws say buildings with children and not an administration building. He also believes it was stated earlier that the intention for that building was going to be used as a Warehouse for storage.

City Attorney Rubin asked if the Deputy Director in Santa Fe is aware of what the intent of the building is.

Chuck Jones responded that they are aware of a school property and it could be an issue. He has heard two comments regarding the laws that are on the books, and it says school building. He doesn't know if it specifically differentiates between a High

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School, Junior High, Elementary School, or a Pre-School building and/or a Warehouse or Administration Building.

City Manager Madrid responded that he believes the language says school, not school building. There is a difference in the purpose of the property.

City Attorney Rubin stated that he tends to agree with the City Manager that it does say school, however he doesn't know if the interpretation of the word school is to mean more than that. He didn't know this was coming up, so he hadn't researched it.

Chuck Jones responded that they don't want to be the ones who have to spend the money to prove the point and make it a precedent. They need to know before this moves forward. It's not that they don't want it to move forward, they appreciate everybody's position, especially Mr. Merrel, but they have their investment as well, and they can't be restricted from expanding because of what they are interpreting the law to be.

Mayor Whitehead responded, they will make sure that the determination is proper, but she thinks that the code for liquor licenses says "schools" but they will make that determination. They will not put anybody in jeopardy be it you or the schools.

Chuck Jones indicated that the Deputy Director said they could get a permanent waiver.

City Attorney Rubin responded that a waiver would require a separate agenda action.

Mayor Pro-Tem Clark read regulation 60-6B-10 which stated; *no license shall be issued by the director for the sale of alcoholic beverages at a licensed premises where alcoholic beverages were not sold prior to July 1, 1981 that is within 300 ft. of any church or school. A license may be granted for a proposed licensed premises if the owner or lessee has, prior to establishment of a church or school located within 300 ft. of the proposed licensed premises, applied for, been granted and maintained a valid building permit for the construction or renovation of the proposed licensed premises and has filed on a form prescribed by the director a notice of intention to apply for transfer of license to the proposed licensed premises.*

Mayor Pro-Tem Clark continued that the code says school so that can be a little ambiguous and that's the question. Also, another question is what would happen if Raymond's wanted to sell itself, even though prior to 1981 they have been selling liquor. Would that be a sellable property if the school was right next to it, even though you were grandfathered in?

Chuck Jones responded that the Alcohol and Gaming Deputy Director informed them that they are grandfathered in as is, and they can re-sell as is. What they are concerned about is being able to expand their building.

City Manager Madrid thinks that the language would actually protect the business owner because presently it is pretty plain that there is no intent to locate a school in this building. However, if there were to be a school located in that building, it would take some renovations or modifications that would require a permit from the city. The city would probably be violating the law if we allowed a school to be located near a liquor establishment. So it's kind of a thing of who was there first. If there was a school there first, then we could not allow a liquor establishment next door, and if there was a liquor establishment there first, then we could not allow a school to be built next to it. In this case, the liquor establishment was there first.

Chuck Jones responded that he appreciates that. They just don't want a mistake to happen that's going to windup putting them at odds with anybody, and right now is the time to catch that, and that is all they are concerned about. They don't want to be in opposition or contrary. They want to be agreeable and do what they can to support any growth in T or C, but at the same time they have this investment. He appreciates Mayor Pro-Tem Clark's reading of the statute which does say schools. You can say, well there's a bunch of different churches over there, and what may be allowed on one property may be a little different than the other. Ambiguous was the word Mayor Pro-Tem Clark used for schools, and that's what he thinks it is. He also understands when City Manager Madrid stated that we were there first. We are also grandfathered in for the sale, and the use of the building as is, and that's the catch, "as is." We are in agreement of this, but we are in opposition because we don't know where we stand after this happens.

Mayor Whitehead thanked Mr. Jones for his concerns and his presentation, and she assured Mr. Jones that they will look into this to make sure whatever happens will benefit both parties.

Chuck Jones asked that they be informed of the finding before this moves on.

City Manager Madrid responded that the action scheduled for today will determine the finding.

Chuck Jones asked how the item can be approved today if it has not been researched.

City Manager Madrid responded, he does not believe it really needs to be researched any further. He thinks that the record, the boundaries and the laws are clear enough for the Commission to make a decision today.

Mayor Whitehead informed Mr. Jones that he will need to bring his presentation back to the Commission when he plans on expanding the building, and the Commission will decide on his issue at that time. Today they are only talking about this one particular item which is a plat amendment request. You have now spoken as an opponent and you have brought your concerns to us, so in looking at the rules and regulations it seems that they are following the rules that should be followed pertaining to the

amendment of this plat. They will now let the proponents speak, and they will take everything into consideration while they make their ruling.

Proponents:

Michael Merrel clarified that he had his attorney look into this, and the code says school or church. If there is a church administration you can still have your bar there, and a school administration is not a school. The building in question is giant shed and there are no offices in there, or anything else for that matter. The school will only use that building for storage. The building behind Raymond's Lounge is where the Ambercare offices are now. When Cindy Torres told him that the school was looking into this, his attorney called the Alcohol and Gaming Division and they said it was schools or churches, not administration. He gave the school a great deal and if you have seen their building, it's terrible, and this is a great property for the school to have.

Mr. Randy Piper, Superintendent of Schools stated that his office has three holes and he would not put anyone else in his office because of the shape it's in.

Ms. Cindy Torres wanted to say the school did not take this lightly. They did have one other building and this is truly the only option.

City Manager Madrid wanted to read into the record a letter in support of the project they received by Esther Luchini. The letter reads, *dear T or C City Commissioners, She does agree with the request for a plat amendment at 910 N. Date Street in Truth or Consequences, New Mexico, submitted by Michael Merrel of Monaco Properties, Inc. She supports that the Commissioners approve the request. Respectfully, Esther Luchini.*

Mayor Whitehead closed the Public Hearing.

She opened the discussion on the plat amendment and possible approval.

Mayor Pro-Tem Clark had some comments and questions:

- If they wanted to change the use from an administration building to a school, they would have to come before the Commission first, correct?
- How far is Raymond's back door from the building?
- Can they legally give alley access even if it's just for storage?
- She thinks it would be great to do this for the school and would like Raymond's to also be protected.

City Manager Madrid responded to Mayor Pro-Tem Clark's questions:

- A change of use from an administration building to a school would probably require a lot of renovations which would require a permit from the city, and at that point we would address the distance.
- Responding to the question of how far is Raymond's back door from the building. Building to building it is more than 300 ft., but it is less than the 300 ft. building to boundary.

- They will still have access from Date Street, so it is not just precluded to the alley.
- He knows that the business owner is concerned about the language and a possible restriction on expanding, but the State Liquor Act allows for the expansion inherently under the same roof, and from what he can see they would be extending the current structure with a contiguous roof. They are automatically entitled to that, and that would not take any permission from the city, other than a building permit.

City Attorney Rubin stated that this proposed amendment is not in fact utilities, drainage or traffic, so this would be a minor amendment of plat and you could proceed on that basis also.

City Manager Madrid noted that the permanent waiver lies in the rules and regulations within the Alcohol and Beverage Control Act. He also thinks the that schools understand that by acquiring this property, and if they tried to place a teaching facility there, or a school facility there, it wouldn't happen because the Public Education Department, Board of Education, or the Superintendent would not allow it. So that in itself is the assurance.

Commissioner Hechler moved to approve the plat amendment at 910 N Date Street for Michael Merrel of Monaco Properties, Inc., pursuant to Chapter 15, Sec. 15-17- Amendment of plats. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried by a vote of 4-1-0. Mayor Pro-Tem Clark voted nay.

2. Discussion/Action: Resolution No. 39 18/19 approval to submit the application for Juvenile Adjudication Fund (JAF) Grant for Teen Court. Judge Bobbie Sanders:

Judge Bobbie Sanders presented Resolution No. 39 18/19 approval to submit the application for Juvenile Adjudication Fund (JAF) Grant for Teen Court.

Mayor Pro-Tem Clark moved to approve Resolution No. 39 18/19 approval to submit the application for Juvenile Adjudication Fund (JAF) Grant for Teen Court. Commissioner Baca seconded the motion.

Mayor Pro-Tem Clark thanked Judge Sanders for all that she does for these young people, and the fact that she still does this program, and never gives up on these kids is very admirable.

Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution No. 40 18/19 setting fees for Fuel and Other charges at the Municipal Airport. Blair Wyman, Airport Manager:

City Manager Madrid reported this Resolution is to establish a cost plus policy. So if fuel prices or oil prices rise or fall it will be directly related to the price for all of the customers, and there will not be any discretionary pricing or delay in pricing.

Mr. Wyman reported this will adjust their prices so they do not have to come back frequently.

Mayor Pro-Tem Clark moved to approve Resolution No. 40 18/19 setting fees for Fuel and Other charges at the Municipal Airport. Commissioner Baca seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

**4. Discussion/Action: Resolution No. 41 18/19 NMFA Loan refinancing.
Morris Madrid, City Manager:**

City Manager Madrid reported, in review of our debt service schedule for all of the city's debt over the next 25 years, he has made some discoveries which show that we have a small group of loans that are outstanding from prior years. The terms vary, some of them only have a few years left, and some have about 10 years left on them. The largest one matures in 2022. Normally refinancing involves borrowing new money, lengthening the term, or something that is convenient to lower the payment. In this case, the interest rates have dropped so significantly with no one noticing. All we are going to do is refinance without any new debt and without lengthening the term. The savings in total on these three loans would be about \$213,000 for the rest of the term. We will not change anything except the payments will be lower. We are not extending the terms and there is no additional debt. We will be looking at our debt capacity so we can do some more infrastructure improvements. Some of the things he has talked to NMFA about are re-doing our entire IT system, renovating the Commission Chambers, and acquiring any other necessary equipment that we might need but that is not related to this item. This item is only to re-sign a new agreement, lower the interest rate, and increase the savings.

Mayor Pro-Tem Clark thanked City Manager Madrid and said this is way overdue.

Commissioner Hechler asked if we refinance at a lower rate can we also refinance to a higher rate and pay it off earlier, is there any merit in that.

City Manager Madrid said the short answer is yes, that would've been a good option.

Mayor Pro-Tem Clark moved to approve Resolution No. 41 18/19 for the NMFA Loan refinancing. Commissioner Szigeti seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. REPORTS:

City Manager reports:

City Manager Madrid reported the following:

- He reported for Sanitation Director Alvarez on the Spring Cleanup which included the numbers, the increase in participants, and the amount collected. He gave a special thank you to the Rotary Club for volunteering their time and making a great lunch for all of the volunteers.
- The Golf Tournament was a great success. He has never seen anything like it. He had one of the best times he has had in a long time and it was due to the people and the volunteers. The way that the community got behind this thing was entirely awesome. He felt like he was with many old friends, and you don't get that in just any community.
- Sometimes we get stuck doing what we have always done. He would like to propose that every other meeting, we do not have public comment and have an evening meeting with the City Manager. The one complaint he has heard is the meetings are during the day when people can't attend. The meetings could be held in the evening here in the Chambers and people could come in and report any issues, or get answers to any questions they may have. He will then report it to the Commission at the next meeting.

City Attorney Rubin reported the following:

- City Attorney Rubin was looking online about the school and he found under 15-10-2.7 there is a definition of schools.
- In relation to the Consent Calendar, we have put Advisory Board Meeting Minutes on there, and there is some concern as to whether the Commission is approving any request that may be included in those minutes. He's seen it done a couple of ways like the way it is or just as an acknowledgment.

City Commission Reports:

Commissioner Szigeti reported the following:

- Commissioner Szigeti said it was a great Fiesta Weekend and there were no significant issues. He thanked the Fiesta Board for putting on another good show.
- He finds himself thinking about discussions related to the first presentation to Ms. Griffin and he has not heard anything good about what they offer us for promotion and advertising. Granted our contribution to them is minimal, but their contribution to us is also minimal.

Commissioner Hechler reported the following:

- He reported that their Planning Retreat is scheduled for the end of this month.
- He volunteered during the Free Cleanup day and he suggested that they possibly go with Audon Trujillo's idea and call it Free Cleanup Month where they provide a coupon through the Utility Office, which allows one person to dump one load at the City Transfer Station within that month. That would avoid people having to wait in line for hours.

Mayor Pro-Tem Clark reported the following:

- She asked Mr. Szigeti to give her a call about the Tourism Board since she started it.
- She liked City Manager's idea of meeting once a month with the public.
- She suggested that the Consent Calendar would be for City business which would be City Minutes and Accounts Payable and then the other boards who present minutes to us would be separate on the agenda.
- Mayor Pro-tem Clark and the City Commission briefly discussed Public Comment on the agenda. Their idea would be to do a test run and only have Public Comment every other meeting, and the City Manager would meet with the public as addressed in his report. They would like that to be effective as of the second meeting in June.

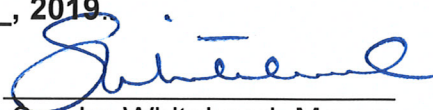
Mayor Whitehead reported the following:

- She commented on Commissioner Szigeti's look at Tourism. Joannie Griffin has done some great things and she has also done some other things that were not so great. She would like to look into us maybe bringing this back to the City of Truth or Consequences, so we can keep our money here locally and promote our city in ways that would be terrific for us.
- She also wanted to say thank you to everybody for all of their hard work. We had our Spring Cleanup on April 27th and she thanked Officer Marin for all of his help. She also thanked Sanitation Director Alvarez; Grant/Projects Coordinator Burnette; all the Sanitation Personnel; all the volunteers; Commissioner Hechler; the Rotary Club; Renee Cantin, Steve Buckley, Virginia & George Lee, Earl Bridges, Chief Aragon, and any others who were there. She agrees we also need to look at some different ways to do it.
- She also thanked the staff; volunteers, and everyone who participated in the Golf Course Tournament.
- Last week we had a great parade. She thanked all of the volunteers; staff; vendors; and OJ and his staff.
- We also had the concert and she thanked everyone for their involvement during our Fiesta weekend.

M. ADJOURNMENT:

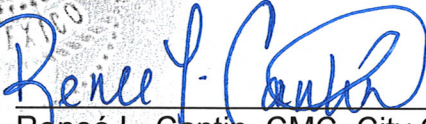
Commissioner Szigeti moved to adjourn at 10:55 a.m. Commissioner Baca seconded the motion. Motion carried unanimously.

Passed and Approved this 22nd **day of** May, **2019**


Sandra Whitehead, Mayor

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ATTEST:



Renee L. Cantin, CMC, City Clerk