

**CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, MAY 24, 2023**

A. CALL TO ORDER:

The meeting was called to order by Mayor Amanda Forrister at 9:00 a.m., who presided and Angela A. Torres, 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. Amanda Forrister, Mayor
Hon. Rolf Hechler, Mayor Pro-Tem
Hon. Merry Jo Fahl, Commissioner
Hon. Shelly Harrelson, Commissioner is absent
Hon. Destiny Mitchell, Commissioner via telephone

Also Present: Angie Gonzales, City Manager
Bruce Swingle, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
Kristie Wilson, Finance Director

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

2. SILENT MEDITATION:

Mayor Forrister called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Forrister called for Commissioner Fahl to lead the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Mayor Pro-Tem Hechler moved to approve the agenda as submitted. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

C. PRESENTATIONS:

- 1. Proclamation naming April 14-16 as the 2023 Hot Springs High School Envirothon Champion Scat Cats Day, in honor of their 11th time winning in 12 years.**

Mayor Forrister presented a proclamation to the Hot Springs High School Scat Cats team in honor of their 11th time winning the State Envirothon Competition.

- 2. Issuance of certificates to the Hot Springs High School Scat Cat Envirothon Champions.**

Mayor Forrister presented certificates to the Hot Springs High School Scat Cat Envirothon Champions for the following accomplishments:

Jair Serrano (Team Captain) for winning 1st place in the Soils contest.

Cayden Tisdale for winning 1st place in the Forestry contest.

Chrisney Deseo for winning 1st place in Aquatic Ecology contest.

Genevieve LaFont for winning 1st place in Climate Change contest.

Odessa LaFont for winning 1st place in Wildlife contest.

Jameela Deseo for being the Alternate and winning 1st place in the Soils contest.

Team Coach-Mark Hedge in recognition of guiding our Hot Springs High School Scat Cat Team to another successful triumph during this year's New Mexico Envirothon Competition.

- 3. Proclamation naming May 26, 2023 as Poppy Day for the American Legion Auxiliary.**

Mayor Forrister presented a Proclamation to the American Legion Auxiliary naming May 26, 2023 as Poppy Day for the American Legion Auxiliary.

D. PUBLIC COMMENT (3 Minute Rule Applies):

There were no comments from the Public.

E. REPORTS:

City Manager Gonzales reported the following:

- There are 25 known water leaks, and they have fixed 11 of them. All of it is in the vicinity of Veater Street. The water department is understaffed, and are not getting applicants.

City Manager Swingle reported:

- He wanted to thank the Commission, staff, and community. This will be his last meeting. It has been an honor to work with the Commission and the prior Commission as well.

City Attorney Rubin reported the following:

- He wished City Manager Swingle the best of luck. It was a privilege to work with him.

City Commission Reports:

Commissioner Fahl reported the following:

- She commented on the Envirothon team. It was quite an endeavor, and she has worked with them for many years. It is similar to what the FFA kids do, but it is so detailed, and the stuff they have to know is impressive.

Commissioner Mitchell reported the following:

- It is the last day of school and summer is launching. They are starting swim team try outs soon, and closing out Fiesta. She thanked the city for all of their help as well.

Mayor Pro-Tem Hechler reported the following:

- He thanked City Manager Swingle for his service. He also commended Commissioner Mitchell for leading their team for Fiesta and helping make Fiesta successful. He is in the process of helping clean up Fiesta as well. There is a town hall meeting at the Albert Lyon Center regarding hospital redistricting. It is a very important venture for our community.

Mayor Forrister reported the following:

- She also thanked City Manager Swingle for his leadership, mentorship, and his friendship.

F. CONSENT CALENDAR:

1. City Commission Special Budget Minutes, May 8, 2023
2. City Commission Regular Minutes, May 10, 2023
3. Acknowledge Regular Public Utility Advisory Board Minutes, March 20, 2023
4. Take Home Vehicle Form

Commissioner Fahl moved to approve the Consent Calendar as submitted. Commission Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. PUBLIC HEARINGS:

**1. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 754
Authorizing the issuance of the City of T or C Joint Utility System
Improvements Revenue Bonds.**

Chris Muirhead, Modrall Sperling: We have talked about this a couple of times. This is the final step for the USDA financing, which relates to the \$5,487,000 loan, and importantly the \$3,930,000 grant for the Water System Improvements. As we have talked about the change of how the USDA does this in the last 5-6 years, they did require interim financing to cover the cost of construction, and then they would close after that interim financing was done. We've talked about Bank of the Southwest being the lender on that, and that was in February or March of last year, for a \$5,542,000 note and security agreement that will be paid off at the end of June when this closes. I spoke to the bank, and they gave us the run down, so that was a loan at 5% daily. The interest paid today that will be closing at the end of the June on the \$5million plus loan would be \$95,725 that the city has paid. The importance of this is that it was at a 5% interest rate. This one here will be at a 2.125% interest rate over 40 years. The USDA is the lender, so they just replaced Bank of the Southwest as the lender. The term is for 40 years, which again is remarkable. If you were to go out and price these bonds in a regular capital market public offering, that would be impossible to do economically. The other very important thing is that they are offering you this loan at 2.125% over the term in the 40 years. The city has the option to repay at any point that they want to with USDA, so there is no prohibition on paying it early. However, that wouldn't be in the best economic sense given the low interest rate and the usage of money, but you might you have that flexibility. The important thing in the ordinance in front of you is the pledges. The net system revenue for the water system, G.O. bond did close last Friday, and that is great so that money is available. This one is a different pledge. It is a special limited obligation to your net revenues of the water system, which means again, that you get your gross revenues. You pay your operation and maintenance to make sure your system is running, and what is left in your net revenues is what the USDA will have a lien against. They can't look at the G.O. money, and they can't look at any gross receipts tax money. They can only look at your utility. What they can do, and what you have been doing, is if there is a short fall down the road, they can look at your system rates and require an increase to make sure that it is paid. The majority of the ordinances are in the form of the bond. Sometimes the finance authority will do a loan agreement. Other places, like you did with Bank of the Southwest, might have a promissory note. The bond is just the debt instrument indicating that you are paying 2.125% over 40 years for \$5,487,000. There are a couple of reserves required and that is a continuation of what you also have under your other USDA loans. There is a reserve that is funded monthly, up to where you have a full year's debt service in your reserve fund, and then there is a reserve just

to make sure that you have money available for asset improvements as needed for the system. USDA has provided a debt service schedule which is are right at \$17,000 a month for the term of the loan, and that is a set number. It is not subject to variances in a variable interest rate. You have a fixed rate. Those are the key points about the transaction that is happening. The next steps would be to move towards closing, and get consents from your other lenders, which would be the New Mexico Finance Authority, and the Environment Department. The Environment Department has one loan which is subordinate to this finance theory as a few that are out there. We will show that the revenues are sufficient to pay that outstanding debt, plus this debt, and move to close at the end of June. The money then will be used to repay the Bank of the Southwest, and that will be done, and this is a much lower interest rate steps in.

Mayor Pro-Tem Hechler: I just have a quick comment. I read this again this morning and it sure makes a lot more sense when you do your presentation like you did, and I wish I would've waited.

Chris Muirhead, Modrall Sperling: Well, thank you.

Mayor Pro-Tem Hechler: I appreciate it. Everything is very clear. We've been through this several times and I think it is a great thing for our community. I appreciate your hard work in showing up here every time to present this.

Chris Muirhead, Modrall Sperling: I love coming down here, I really do.

Commissioner Fahl: It's good for you to keep clarifying the difference between this bond, versus the bond that most people assume that we're doing, so I think that is good for the community to understand that, so thank you for making that clear.

Chris Muirhead, Modrall Sperling: They are different types, and the key point is really focusing on how you're paying it back and what they can do to collect if there is a short fall that is important.

Mayor Forrister opened the public hearing.

Proponents:

There were no proponents.

Opponents:

There were no opponents.

Mayor Forrister closed the public hearing.

Mayor Pro-Tem Hechler moved to approve adoption of Ordinance No. 754 Authorizing the issuance of the City of T or C Joint Utility System Improvements Revenue Bonds. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Public Hearing/Discussion/Action: Repeal of Ordinance No. 748 of the City of Truth or Consequences, New Mexico.

City Manager Gonzales: This is the repeal of the ordinance that had the incorrect survey.

City Attorney Rubin: As you know we've been working with several of these cell tower leases, and cell tower ordinances. Unfortunately, there had been some confusion with planning ordinances in the past were it referred to the water tank. Since there was confusion, we felt that the best thing to do was just to seek a repeal of what we had passed which would be G2, and then G3, and G4 would be the correct ordinances. So, we are speaking for G2 to be approved.

Mayor Forrister opened the public hearing.

Proponents:

There were no proponents.

Opponents:

There were no opponents.

Mayor Forrister closed the public hearing.

Commissioner Fahl moved to approve Repeal of Ordinance No. 748 of the City of Truth or Consequences, New Mexico. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 750 an Ordinance authorizing the assignment of the lease of real property to American Tower (Kopra St. Tower) pursuant to section 3-54-1 NMSA 1978.

City Manager Gonzales: This one is correct.

City Attorney Rubin: Did everyone get the revised description note from yesterday?

Mayor Forrister: Yes.

City Attorney Rubin: I've had several discussions with American Tower. They wanted me to make sure I included the original 40 acre description which was on an old Verizon lease, and we made it clear with the redline version that the tower itself was actually only the .23 acres. Everything else is basically the same. When it comes to these leases when we are leasing real property in the value of excess of \$25,000, we have to go through the ordinance procedure. We also explained several reasons why we are accepting this proposal, which is because it is an investment to the city.

Mayor Forrister opened the public hearing.

Proponents:

There were no proponents.

Opponents:

There were no opponents.

Mayor Forrister closed the public hearing.

Commissioner Fahl moved to approve adoption of Ordinance No. 750 an Ordinance authorizing the assignment of the lease of real property to American Tower (Kopra St. Tower) pursuant to section 3-54-1 NMSA 1978. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Public Hearing/Discussion/Action: Final Adoption of Ordinance No. 751 an Ordinance authorizing the lease of real property to Tower Point (Water tank site on Pershing) pursuant to section 3-54-1 NMSA 1978.

City Manager Gonzales: This is the tower site on Pershing but I'm going to let Attorney Rubin continue.

City Attorney Rubin: It is basically part B of what I just said. This is the other site. Now we're talking about the Pershing Street water tank site. We have the legal description attached and this contemplates a \$300,000 upfront payment which it is always good to have the money upfront on things like this. We also set forth in paragraphs 1-4 starting at the bottom of page one going to page two so we are in favor of this.

Mayor Pro-tem Hechler: So, is this the final time we will see this on the agenda?

City Attorney Rubin: We still have the 2nd street one I think. That one is still coming up.

Mayor Forrister opened the public hearing.

Proponents:

There were no proponents.

Opponents:

There were no opponents.

Mayor Forrister closed the public hearing.

Mayor Pro-Tem Hechler moved to approve Ordinance No. 751 an Ordinance authorizing the lease of real property to Tower Point (Water tank site on Pershing) pursuant to section 3-54-1 NMSA 1978. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

H. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 44 22/23 Approval of Audit Results for 2021-2022.

Chris Garner, Patillo, Brown & Hill, LLP: This is the required communication that auditors are to make to those that are charged with governments. We went into a little bit more detail in December. I just have some more of the highlights to go over this morning. If we go to the first slide what I want to talk about is our responsibility under auditing standards because there used to be a lot of confusion about what we do as auditors, so people thought we come out and look for fraud, and that's what we do, well, that is only a small part of what we do. As you can see in the top two boxes, those are talking about just regular U.S. auditing standards. Under U.S. auditing standards, we have been hired to express an opinion on the financial statements. The financial statements are your responsibility. We come in and audit them, but we don't look at every transaction. We pick samples, statistical samples. We do internal control testing. We are definitely not looking at everything, so we give what's called a reasonable assurance. We do not again, look at everything, so there could be errors, but those errors are not going to be big enough, you're just talking about a debt issue. When you give that financial statement to the bond rating company, those errors are not going to be big enough to change their opinion on the financial status of the city, and so that is what our responsibilities are. It really comes to cost. If we had to look at every transaction, the cost would just be unfathomable, and it just doesn't make sense. So again, our responsibility is to make sure the financial statements are what we call materially correct. We have to look at internal controls, not very deeply, so with regular U.S. auditing standards, you would take cash disbursements as a cycle that we have to test, and all we have to do is take one transaction, walk it through, and we've met those standards. The New Mexico State auditor, and the audit rule, really wants us to test

internal controls, so that is what we call yellow book standards or governments auditing standards, where we as auditors actually have to go in and test internal controls and pick samples. What happens there, is we will spell out in that report what we do differently above and beyond the auditing standard requirements, and then we talk about the results of our testing, but we're not giving an opinion on internal controls. We have to communicate what we call significant matters, so if we are looking at thresholds, significant matters are up "here". The NM state audit rule doesn't like that. They want transparency. They want anything and everything to be reported, so basically it goes down to the ground level. So even if we have exceptions that are lower than that in New Mexico, they have to be included in your audit. We are a little bit more stringent in our state, additionally the state auditor extends what we have to test, things like travel per diem, procurement, there's a list of about 15 items that potentially we might have to test if it's applicable to the city. It's expanded what we test, and then again, what we have to report is a lot more stringent than other states, and other entities that go through an audit. The next thing is the results of the audit. We issued an unmodified, or as I put here, a clean opinion. What I like to say is exactly what you want to receive. This is the highest level of assurance that we as auditors can give, and it is exactly the report that you want to receive, so it's a good thing. On the other reports, we do have a finding that we will talk about at the very end, and it's actually one of those that doesn't reach that threshold, so if we were down south in Texas, we wouldn't even include it in your report, but again the state auditor wants transparency. They want us to make sure that you understand what the issues are so that we can make internal controls better. The next thing is dealing with a single audit, because the city spends more than \$750,000 of federal grant funds, you have to go through a compliance audit, and we do give an opinion on that, and again you can see its unmodified opinion. The same as we give on the financial statements, so it's exactly the type of report that you want to receive, so even with the federal compliance audit, you're getting the report that you want to receive. Both reports are the highest level of assurance that we as auditors can give. When we as auditors come in are given good supporting documentation on things like invoices, purchase orders, personnel action forms, or time cards. There is a whole list of things. We look to see if they are they in good order, and are they given to us in a timely manner so that so that when we ask for them, we don't have to wait a long time. We did not have any difficulties with that. Your accounting records are being well maintained, so when we did ask those questions, the documentation was provided to us in a timely manner and in good order. The next thing is communication about audit adjustments, and we did have some audit adjustments, but we'll talk about the reason we have them. It's really the state of New Mexico's fault. In New Mexico, DFA will tell you but they can't prove it, and actually the City of Las Cruces has gone away from this methodology, but they will tell you that you have to adopt a budget on a cash basis of accounting. Cash basis is not an acceptable methodology under our standards that we have to follow, so what has to happen is you maintain your records on that cash basis, you report to DFA quarterly on that cash basis, and you adopt a budget and monitor the budget throughout the year on a cash basis of accounting. Well again, that's not acceptable under our standards, so what has to happen is your finance team every year has to give us audit adjustments to get us from that cash basis, to modify accrual, and also to another version of full accrual. You're financial statements are kind of confusing because there

are three methodologies of accounting in them. Bottom line. The whole reason for this communication is if auditors have to come in, and make lots of adjustments as you make important financial decisions throughout the year, this should cause you some concern. All of these adjustments do not affect how you are monitoring the budget, so there's not a single adjustment that would change the numbers based upon how they're reflected to you, so bottom line your financial structure that has been established, and the internal controls are working well so that the numbers when they are presented to the Commission should be in good order, like I said we did not change a single one on that basis of accounting. The last thing is just to talk about findings, and there's a reason the NM state auditor has this number of findings a certain way. As you can see, we did have one finding, but its number 20-22-001, and what that tells the Commission is that this is a new finding. I think that is really important because you have lots of transactions that flow through your accounting system. There's going to be stuff that happens. Unfortunately, that is just the way it is, but what the Commission wants to see is if they are getting resolved in a timely matter. Sometimes it'll take a couple of years, because by the time we get the audit done, and get to the state auditor, you're more than halfway through a year, and you might not have the ability to get those things fixed before the next year is up, and an exception would be 2 years. There was a time at this city where that happened, where findings would just keep being repeated, but it's been a while since that has happened, so management is taking them serious. We just had one finding, its brand new, and it was related to procurement, and we've actually been on the phone quite a bit talking about how to resolve it, and I think it's already gone out to RFP and it's been resolved. What happened was it wasn't a onetime purchase, but multiple purchases, and the state law doesn't want you to circumvent the procurement laws by doing multiple purchases to break it up. You have to look at it on an annual basis, and there was one that went through the cracks. I think it's already gone out to bid, so I think it's already been resolved. We did have one finding last year related to Lodgers Tax, and again as you can see the numbers 2021, so it got dealt with within a year and so again, I think the really important thing for the Commission is that management the last several years has really dealt with findings, and they are getting them resolved, and they're not sticking around. That I think is really the most important part to take away. With that I'll open up to any questions.

Commissioner Fahl: That was a very good explanation for everybody to understand how the budget process works.

Mayor Pro-Tem Hechler: In going through the audit itself, I noticed that the Housing Authority had several minor findings, how significant are those? Should we be worried as a city management about the overall organization, because there are several findings, or are these just relatively minor and easily corrected?

Chris Garner, Patillo, Brown & Hill, LLP: I do not remember their findings, so if you would let me go look I will send a response to the city, and I will kind of look at those. We weren't their auditors. They have another auditing firm, and actually Bruce brought up the fact of why are they under our jurisdiction. It doesn't make sense, and we had lots of discussions about it, and the reason is because we appoint board members, and

we have an influence because of that, so I don't know if the Commission wants to look into maybe trying to change that, if it can be changed, so that you don't have those responsibilities, but I do remember the audit was slow, and it was late. It almost held us up. I think we were at the 11th hour waiting on their information, and we were completely done with their audit. It was due in advance of yours, so that we could get that information, but we had to wait for them so it did cause some problems for the city. I will look exclusively at their findings, and I will send it back and let you know. I think there are some that maybe should cause some concerns but as Bruce had mentioned I think it might be in the best interest of the commission to look in can we change that? And then that will take attorneys to determine that because you do have some responsibility and unfortunately their findings are included in your report, I ignore them because you really are not involved in the day to day operations, that's really their issues but it is something that you do have oversight over.

Mayor Pro-Tem Hechler: You have answered some of that already. I was kind of concerned because we were literally held hostage from them to get their stuff to us and that was a concern for me and then the concerns themselves had to do with per diem and some other minor things that are I'm hoping one time circumstances but might bear looking into.

Chris Garner, Patillo, Brown & Hill, LLP: Per diem doesn't rise to that level because it's a compliance issue it's a state compliance so it doesn't again in another state it wouldn't have been included in the report but it really depends upon and I don't know management how they react to those findings and how their being proactive here at the city the last few years have been very proactive what do we do to fix it? We've had probably four or five conversations dealing with this one finding this year how do we fix it? So I don't know for that proactive or not that's hard to say only their auditors could probably answer that for you.

Mayor Forrister: Thank you, this is what we like to hear that we are moving forward that there has been findings in the past that we have dealt with and we have moved on and that we're getting more clean reports so I appreciate that and appreciate the work of our staff on getting those done.

Mayor Pro-Tem Hechler moved to approve Resolution No. 44 22/23 Approval of Audit Results for 2021-2022. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Resolution No. 45 22/23 Approval of the Preliminary (Interim) FY 2023-24 Budget.

Kristie Wilson, Finance Director: We just need approval of the budget I had sent it to you everything is updated. We just got our GRT for the month of March but it's reported

in the month of May and it's actually significantly higher than it has been so that ending cash balance is going to again go way up.

City Manager Swingle: I know you know this but just pointing it out this was Kristie's first budget really her first government budget that she's been a part of and it was a very good budget. It's always nice when you have revenue. Outstanding job though Kristie thank you and the entire finance team.

Kristie Wilson, Finance Director: Thank you my staff is very important and if it wasn't for them it wouldn't have been done.

Mayor Forrister: You made the budget process a lot easier and like you said revenue does help the situation if we can all remember the budget last year we were nickel and diming every little thing because we had to we had to cut like \$2million our budget or something.

Kristie Wilson, Finance Director: That's where we started this year, I was nickel and diming and I was cutting stuff asking people do you need this? Can we cut this at all? And trying my best to make sure we were living within our means.

Mayor Forrister: I'm glad you did that prior coming to us.

Commissioner Fahl moved to approve Resolution No. 45 22/23 Approval of the Preliminary (Interim) FY 2023-24 Budget. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution No. 46 22/23 Approval of swimming pool fees and schedule for the 2023 swimming pool season.

Ashley Galicia, Pool Supervisor: I'm not sure which order you guys have this in but if you'll look at the exhibit a from the previous year of our prices and our pool passes we had a 10 punch pass, 30 punch pass, and the annual pass. We are changing that we'll keep the 10 punch pass the same if we're keeping passes along with a new pass for a seasonal pass since our season is from Memorial Day through Labor Day so the season pass would be good for one season or the next option that you have is without any pool passes we would just have the daily fee's everyone would pay a daily fee when they come in and we have our pool party rentals, and then after that is the different schedules the first one is the one that we are going to start with the closed on Wednesdays the other ones are just some options that we were looking at to adjust and go based off of what days' work the best for everybody and the ones that are bringing in more people. Also since school is starting back a little earlier this year in July 31st we'll also be making adjustments once that comes back into play.

Mayor Forrister: Thank you Ashley for you guys looking at this and kind of staying current with what's going on. What is your favor, what are you favoring? Pool passes or no pool passes?

Ashley Galicia, Pool Supervisor: I just feel like a lot of people don't carry cash on them and because the pool doesn't accept credit cards I feel like if we do without passes completely that it is going to be kind of an inconvenience to people and they are going to complain about that a lot. So even if we only did the 10 punch pass rather than the season passes I feel like we should have some type of pass option.

Mayor Forrister: I like the pass option also.

Commissioner Mitchell: To piggyback on that it is kind of like flush fund we get people buy the passes then don't come and we still have the funds which is a good thing. I'm in favor of the passes because it's kind of like a loyalty thing and I know the aerobics ladies and lap swimmers they want to just write you a check for \$145 and be done with it for the whole season, they don't have to worry about and then a question is why don't we have credit card access at the swimming pool? Is there like a policy or something?

Ashley Galicia: I don't know I asked OJ about it just recently because I worked at the golf course while the pool was closed and they used their tablet and they have a credit card machine and he said that it would probably be too late this season because we're about to open up and getting access to that because we have to go through a certain brand or something to get access to a credit card machine.

Traci Alvarez, Assistant City Manager: I just wanted to say don't forget there are fees associated with the credit card machines and so I don't know for the low fees of entering into the pool if it would be beneficial to have a credit card fee, we would have to pass that onto the customers, I think that is something finance would have to work with.

Mayor Forrister: I take my five year old to go swim and I'm a non-swimmer so I would need to pay the \$6 and then all the credit card fees and I wouldn't want to do that.

City Manager Gonzales: We are looking at and IT bid award here pretty soon as of the next meeting and in the planning process that's something that we can also look at and we are looking at that this is going to be a whole thing.

Commissioner Hechler: One comment I think for the convenience and you're absolutely right City Manager Gonzales, for the convenience of our customers we should at least offer the ability to have credit cards I think that would be important. I noticed that we're open for Memorial Day to Labor Day and it's too late now I understand that in the commission before had decided this but Memorial Weekend starts on Friday but we're not open till Monday and I'm thinking we're taking a pretty nice weekend away from our community we should be open for Memorial weekend we ought to be open on Friday, Saturday, and Sunday I understand why it's not and if you take it by the letter of what was mentioned Memorial Day is Monday and that's when we're going to start, I think we

should really start the weekend and offer that to our citizens because I think we are service oriented. For the future I hope you keep that in mind.

Commissioner Mitchell: To go ahead and help answer that question on why we opened on Monday instead of Friday is because traditionally we were training lifeguards the weekend before when they got out of school so we didn't have time in advance it was always done Memorial Day weekend but now that Ashley is going to get her lifeguard certification hopefully this summer she'll be able to plan that more accordingly and I think that we should be open on that Friday on Memorial Day just in the past we haven't been able to because we were training lifeguards but I think that it is a good way to capitalize on all of those people coming in for the lake and if they don't want to be at the lake they can come to our pool or float our river.

Commissioner Hechler: I have a quick question for you Mayor so in the form of a motion do we pick one of the exhibits.

Mayor Forrister: Yes

Traci Alvarez, Assistant City Manager: Another thing to note as far as the update on the schedule, I think it's important for the public and commissioners to know that any time that pool is open Ashley has to be there and so while you would love to be able to open much more hours, we have to fit it in Ashley's 40 hours a week because of her CPO and everything would have to be on sight.

Commissioner Fahl Made a Motion to approve Resolution No. 46 22/23 approval of the swimming pool fees and schedule utilizing the pool fees that includes passes. Commissioner Hechler seconded the motion. Roll was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Resolution No. 47 22/23 for the Sale of Surplus Property to be sold at the June 24, 2023 Auction through Willard Hall Auctions.

City Clerk Torres: Willard Hall is having an auction on June 24, 2023. We have 100 wooded poles and a Chevy Venture Minivan that we would like to sell in that auction. If approved, the items will be published as mentioned in the resolution.

Mayor Pro-Tem Hechler moved to approve Resolution No. 47 22/23 for the Sale of Surplus Property to be sold at the June 24, 2023 Auction through Willard Hall Auctions. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously

5. Discussion/Action: Approval of Election Resolution No. 48 22/23.

City Clerk Torres: This year we have Commissioner Position II, Commissioner Position IV and Commissioner Position V that are up on December 31st of this year. The Election will be held in November this year through the County Clerk's Office on November 7th. Declaration of Candidacy will be filed through the County Clerk on August 29, 2023 between the hours of 9am-5pm, and Declaration of Candidacy for write-in candidates will be filed through the County Clerk on September 5, 2023 between the hours of 9am-5pm.

Commissioner Fahl moved to approve Election Resolution No. 48 22/23. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously

6. Discussion/Action: Publication of Ordinance No. 720 amending the City of Truth or Consequences Municipal Code of Ordinances Section 7-201 (A1) and (A2) pertaining to Lodgers Tax Exemptions.

City Clerk Torres: A couple years back we adopted Ordinance No. 720 which pertains to our Lodgers Tax Exemptions. After that ordinance was adopted by the city, the state added language to Subsection A, Paragraphs (1) and (2), language was added that states "unless those premises are temporary lodging" so what we are doing with this is amending our current ordinance to include the language added by the state. This item is for publication of the ordinance.

Commissioner Fahl: Is this different than the short term rentals?

City Clerk Torres: It also applies to Airbnb/short term rentals. I'm glad you brought that topic up. I put a letter in the utility bills notifying short term rentals owners that they need to register with the city because we have a lot of them that are not registered with us because they are not aware that they have to register with us. We are hoping that the short term rental owners will contact us because a lot of them go through 3rd party vendors, and those 3rd party vendors collect and submit lodgers tax for the short term rentals, but they don't provide a listing of who they collect the lodgers tax for, so in order for us to keep track of who is paying through a 3rd party vendor, we need the short term rental owners to contact us and let us know that they are using a 3rd party vendor.

Mayor Forrister: So, this ordinance is saying the tax shall not apply "*unless those premises are temporary lodging*" meaning that Airbnb has to pay us. It was kind of confusing.

City Clerk Torres: That is correct.

Mayor Pro-Tem Hechler: So, we are waiting for them to contact us. Do we know who these people are, and can we contact them?

City Clerk Torres: We don't know who all of the owners are, and even if you go onto the Airbnb website, it doesn't tell you who owns the property, and it doesn't give you any contact information, so that's why we put the letters in the utility bills. If they are going through a 3rd party vendor, we are more than likely receiving their lodger's tax payments. However, if they are not registered with the city, we don't know whose account to post the funds to at this point. Chelsea and I have tried to reach out to some of these 3rd party vendors, and per their policy, they cannot give out any information so we are hoping by sending out these letters, that the owners of these short term rentals will reach out to us so we can keep track of who is using a 3rd party vendor and who is paying lodgers tax.

Mayor Pro-Tem Hechler moved to approve Publication of Ordinance No. 720 amending the City of Truth or Consequences Municipal Code of Ordinances Section 7-201 (A1) and (A2) pertaining to Lodgers Tax Exemptions. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

I. NEW BUSINESS:

Mayor Pro-Tem Hechler made a motion to move item I6 before item I1. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Recommendation from the Airport Advisory Board to renew the EAA (Experimental Aircraft Association) Agreement.

Assistant City Manager Alvarez: Last year the city entered into an agreement with the EAA (Experimental Aircraft Association) for the use of a hangar out at the Airport. You have a copy of that agreement in your agenda packet. There were a couple of deliverables that the EAA needed to meet. They did their fly-in and they submitted all of the paperwork needed for the camp sites. Those are just somewhat on hold because we are looking at some improvements out at the Airport, and so we don't want to have that going on at the same time. The Airport Advisory Board held a special meeting on the 16th and they are recommending renewal of the agreement for another year.

Larry Mullenax, EAA Representative: The main mission of the EAA is to promote aviation so we formed a small chapter locally, and we've been struggling to keep it alive. We restored the T33 and put it on its pedestal 5 years ago and we also did the tetrahedron. When we were working on the tetrahedron, the previous City Manager suggested that the city provide us with a hangar so we could have a place to work on whatever we are doing for the city and of course our own projects. Typically, an EAA chapter will have projects like re-building airplanes, or things that people, including our

youth, can get involved in. When we were restoring the T-33, we had the arts students out there and they did all the painting on the airplane, so we were very happy that we could get them involved. Also with the fly-in, part of that is what we call the Young Eagles program, and we were able to fly 50 young folks during that fly-in. I hadn't really anticipated getting into the deliverables to the specifics that we are doing. I'm just used to doing whatever it takes to make things happen out at the Airport to improve it. I dropped off my forklift last year at the Pippen hangar because I didn't really need it and I thought that it would be handy at the Pippen hangar, but it is not on a deliverable, but it is out there and we are using it, and they use it whenever they need to. If you look at the deliverables, I don't get any credit for that. Not that I wanted to, but if I am in a situation where I want to keep the hangar, it sounds like I am going to have to keep documenting each one of these things, and have it in the contract.

Mayor Forrister: Yes. You will definitely have to do that if you want the hangar. We will have to see exactly what is being done, if not it goes against the anti-donation clause.

Commissioner Fahl: So the fly-in was successful. Are you planning on doing another one next year?

Larry Mullenax, EAA Representative: It was very successful. I think we had about 30 planes fly in, plus the state troopers brought their helicopter in, and set up for the day. There were a lot of things going on and it went really well. I would like to have one in the fall because we would have a better chance of having good weather for the fly-in. That was one of the problems that we had here. By the afternoon, the wind started picking up and the pilots left before the weather got bad. We also did not want to fly students in those conditions because their first flight might be a bad experience, and we didn't want that.

Mayor Forrister: The Young Eagles group is in age range of 8-17. Is there something that kids can do before the age of 8?

Larry Mullenax, EAA Representative: I am not too familiar with that, but I would really like to have more involvement on a regular basis for the young folks. We were planning on building the camp sites at the Airport, and I think that one of the members talked to the shop teacher at the high school, and we were going to have sun screens over the picnic tables and they were going to put together the tops for the sunscreens, and then we would just take it out there and set it up, so that is the type of things that we want to do. We also have a guy who is putting together an old Taylorcraft, and I would really like some of the students come out and see what an airplane looks like.

Commissioner Fahl: I see that as a benefit for us as a community. Your organization serves as a good benefit to our youth and to our community.

Mayor Pro-Tem Hechler: The fly-in was very well received by the public, and I really appreciate you guys doing that. I see the potential of that fly-in being a bigger and better event, and I hope you do too. I think that the car show addition would also be something

that you should go for, as well as some other things like vendors. You certainly have the location and the space to have a bigger event out there.

Larry Mullenax, EAA Representative: That was our thought as well. There is no reason why we can't have a bigger event.

Mayor Pro-Tem Hechler: What is the EAA hangar currently being used for?

Larry Mullenax, EAA Representative: Right now, we have the Taylorcraft in there. We are re-building that.

Mayor Pro-Tem Hechler: So there are no private planes in that hangar correct?

Larry Mullenax, EAA Representative: It is one of the member's plane's that is being restored.

Mayor Pro-Tem Hechler: Is that one of the things that we are supposed to do under the contract?

Larry Mullenax, EAA Representative: Well no. We need that hangar so we can do our projects, whether it be city projects or chapter projects. That was the whole idea of having an EAA hangar.

Mayor Pro-Tem Hechler: So does that plane that's in there normally have a hangar someplace else?

Larry Mullenax, EAA Representative: No. It is somebody's airplane from Arrey. He had it in his barn in pieces.

Mayor Forrister: Are you re-building it for city use, like having it on display?

Larry Mullenax, EAA Representative: Typically we would want to get kids involved to see it. That is the importance part for the community. Some chapters put together an airplane so they can sell it in order to make money for that chapter. Projects like that are what typically happens with those hangars.

Mayor Pro-Tem Hechler: What we are concerned with Mr. Mullenax, is that we are refurbishing a plane for a private individual. Is that what is happening?

Larry Mullenax, EAA Representative: Yes. That is exactly what is happening.

Mayor Pro-Tem: Then I don't know how we can use the EAA hangar for that?

Commissioner Fahl: They can use it if they can get the kids involved. Then it would be for educational purposes.

Mayor Pro-Tem: Those are just questions.

Larry Mullenax, EAA Representative: I understand your concern, but that was the whole reason for us to do the other things like putting up the tetrahedron and having the fly-in, so we could justify having a hangar for whatever we needed it for.

Mayor Pro-Tem Hechler: We should probably make sure that is in this agreement.

City Attorney Rubin: I think this is whether or not the Commission wants to renew the agreement. I think the Mayor hit the nail right on the head. We have to make sure that we are not talking about some sort of a donation here. We need to make sure that we are getting service in exchange for what we are allowing you to do. The agreement says that you are allowed to store the Taylorcraft Airplane in the hangar, and in exchange for that the services you were going to provide were set forth in page 2 of the agreement.

Larry Mullenax, EAA Representative: It is the same aircraft.

Mayor Pro-Tem Hechler: Then I am okay with it.

Commissioner Fahl made a motion to approve the EAA (Experimental Aircraft Association) Agreement. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

1. Discussion/Action: Approval of Purchase Requisitions over \$20,000.

Kristie Wilson, Finance Director reviewed the Purchase Requisitions over \$20,000 that were provided in the packet.

Mayor Pro-Tem Hechler made a motion to approve the Purchase Requisitions over \$20,000. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Approval of Audit Contract FY 2023-2024.

Kristie Wilson, Finance Director: This is the same contract that we had through the years. There is no change this year in costs from last year for Pattillo, Brown & Hill, LLP.

Commissioner Fahl: How much longer will we be able to use this same firm? Is it 6 or 9 years?

Kristie Wilson, Finance Director: I believe it is 6 for this new contract and I believe we have one more that we can do after this and then we have to go back out to bid after that.

Commissioner Fahl made a motion to approve the Audit Contract FY 2023-2024. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Approval of Amended and Restated Agreement between Landis+Gyr and the City of T or C.

Bo Easley, Electric Division Director: This is the revised agreement with Landis+Gyr. I have reviewed this with City Attorney Rubin. The contract is staying the same. They are just going up on their prices for data, center space, server hardware, software licensing, security, and annual server/software maintenance. We currently pay \$950 a year and for the 1st year it will increase by \$450 to \$1,400 and the second year will go up \$230 to \$1,630 and then for the 3rd year it will go up another \$232 to \$1,860 and level out at that price.

Mayor Pro-Tem Hechler: How often do we use these services?

Bo Easley, Electric Division Director: We use them every day for our AMI meters.

Mayor Pro-Tem Hechler made a motion to approve the amended and Restated Agreement between Landis+Gyr and the City of T or C. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Approval of Tenant Lease Agreement between Matthew 25 Food Pantry and the City of T or C.

City Manager Gonzales: Nobody from Matthew 25 was able to attend today. This is the lease agreement for them to move into the Nadine Gardner building which is owned by the city. It will be from the beginning of the fiscal year to the end of the fiscal year. The rent has been changed to pay the sum of \$500 per month, and utilities with the first due on July 1st.

Commissioner Fahl made a motion to approve the Tenant Lease Agreement between Matthew 25 Food Pantry and the City of T or C. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Memorandum of Agreement to make improvements to the City Shooting Range.

City Manager Gonzales: This Memorandum of Agreement was taken to County Manager Vaughn. I was asked to get the county's input of what they are going to do on our shooting range. I sent it to County Manager Vaughn and she has been extremely busy so I never got it back. All they are going to do is put what they are going to do at the range. They are going to put a road grater on the range and they are going to level it and push up the berm and make it bigger and safer. They are also going to clean out the sides and the far end of the range so nothing goes where it shouldn't go.

Mayor Pro-Tem Hechler made a motion to approve the Memorandum of Agreement to make improvements to the City Shooting Range with the stipulations that City Manager Gonzales approves the plan proposed by the County Manager. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Recommendation from the Airport Advisory Board to renew the EAA (Experimental Aircraft Association) Agreement. Assistant City Manager Alvarez

Item was moved before Item 11.

7. Discussion/Action: Appointment of two City Representatives to serve 3 year terms on the Sierra Vista Hospital Governing Board.

City Manager Gonzales: You have 3 vacancies on the Sierra Vista Hospital Governing Board. Two are for a 3 year term and one is for a 2 year term. We received two applications. One from Greg D'Amour and one from Bruce Swingle.

City Manager Swingle: I would like to serve on the 2 year term.

Commissioner Fahl made a motion to re-appoint Greg D'Amour to serve as a City Representative for a 3 year term on the Sierra Vista Hospital Governing Board. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Appointment of a City Representative to serve a 2 year term on the Sierra Vista Hospital Governing Board.

Mayor Pro-Tem Hechler made a motion to re-appoint Bruce Swingle to serve as a City Representative for a 2 year term on the Sierra Vista Hospital Governing Board. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Re-appointment of Don Armijo to the Public Utility Advisory Board.

City Clerk Torres: Don Armijo is a current member on the Public Utility Advisory Board, and his term to serve on the board will expire in June 2023. On May 15th the Public Utility Advisory Board recommended the re-appointment of Mr. Armijo to serve another 2 year term on the board.

Commissioner Fahl made a motion to appoint Don Armijo to serve another 2 year term on the Public Utility Advisory Board. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: Re-appointment of Gil Avelar to the Public Utility Advisory Board.

City Clerk Torres: Gil Avelar is also a current member on the Public Utility Advisory Board, and his term to serve on the board will expire in June 2023. On May 15th the Public Utility Advisory Board recommended the re-appointment of Mr. Armijo to serve another 2 year term on the board.

Mayor Pro-Tem Hechler made a motion to appoint Gil Avelar to serve another 2 year term on the Public Utility Advisory Board. Commissioner Fahl seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

11. Discussion/Action: Appointment of Priscilla Spitler to serve as a Member on the Library Advisory Board.

City Clerk Torres: The Library Advisory Board has a vacancy on their board. On April 24, 2023 the board unanimously requested the approval of the City Commission to appoint Priscilla Spitler to serve a 3 year term the Library Advisory Board.

Commissioner Fahl made a motion to appoint Priscilla Spitler to serve a 3 year term on the Library Advisory Board. Mayor Pro-Tem Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

J. EXECUTIVE SESSION:

1. Threatened & Pending Litigation (*Erica Baker*) pursuant to 10-15-1(H.7).

Mayor Pro-Tem Hechler made a motion to go into executive session at 11:10 a.m. to discuss Threatened & Pending Litigation (*Erica Baker*) pursuant to 10-15-1(H.7). Commissioner Fahl seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

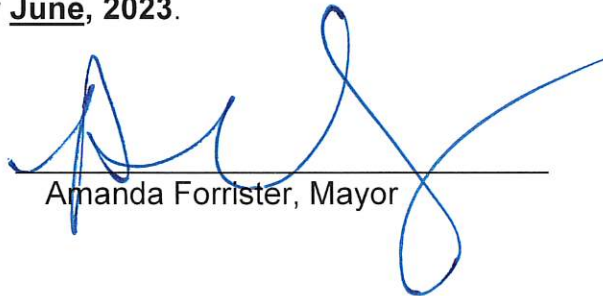
Mayor Forrister reconvened the meeting in open session at 11:34 a.m.

Mayor Pro-Tem Hechler certified that only matters pertaining to Threatened & Pending Litigation (*Erica Baker*) pursuant to 10-15-1(H.7) was discussed in Executive Session and no action was taken.


K. ADJOURNMENT:

Mayor Forrister adjourned the meeting at 11:35 a.m.

Passed and Approved this 14th day of June, 2023.



Amanda Forrister, Mayor



Angela A. Torres, CMC, City Clerk