

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
FRIDAY, AUGUST 28, 2026

A. CALL TO ORDER:

The meeting was called to order by Mayor Rolf Hechler 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. Rolf Hechler, Mayor
Hon. Destiny Mitchell, Mayor Pro-Tem
Hon. Amanda Forrister, Commissioner was absent
Hon. Ingo Hoeppner, Commissioner
Hon. Chaz Glines, Commissioner

Also Present: Gary Whitehead, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
OJ Hechler, Community Services Director

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

2. SILENT MEDITATION:

Mayor Hechler: Cary Gustin, or Jagger, as many of us know him, is our film liaison. He's in hospice, if you didn't know. If you wouldn't mind keeping him in your thoughts for our silent meditation, it would be appreciated. Thank you.

Mayor Hechler called for fifteen seconds of silent meditation.

3. PLEDGE OF ALLEGIANCE:

Mayor Hechler led the Pledge of Allegiance.

4. APPROVAL OF AGENDA:

Commissioner Glines moved to approve the agenda with the adjustment of moving Item C2 before Item C1, and Item F6 before Item C1. Mayor Pro-Tem Mitchell seconded the motion. Motion carried unanimously.

5. COMMISSION COMMENTS:

Commissioner Glines: Good morning. I have a full report written, but to save you time today, I'm going to save that for our first meetings.

Commissioner Hoeppner: Good morning, everyone, thank you for all being here and showing your support for the city. The Summer season is almost over, and we have a lot of things planned in the near future. Please come on down to downtown and support the local businesses.

Mayor Pro-Tem Mitchell: I don't have a report, thank you guys for coming out today and I look forward to hearing from you.

Mayor Hechler: I do have a short report if you'll bear with me. Earlier this year we received an FBI investigation public service announcement concerning malicious cyber-attacks. This prompted us to do an internal review, meeting with our department heads, our City Manager, and staff, to see where we were and if we're safe in regards to cyber-attacks. Bear with me while I read this, I am a little bit new at this stuff but I learned a lot, so I guess that's part of my job. On August 17th, 2026, I had the privilege to meet with department heads and City Manager Whitehead regarding a recent PSA from the FBI regarding malicious cyber actors charting water and wastewater systems. This PSA is [available online](#) dated July 30th, 2026, just search "FBI PSA Malicious Cyber Attacks". In the last month, there have been over 100 attempts by bad actors to hack into water and wastewater systems in 8 states. As a result of this PSA from the FBI, we felt that analysis of our system was advisable to understand the level of protection that we have. We do follow guidelines advised in the article put out on the FBI website. Service attacks were largely due to unsecured firewalls that had no password or unsecure passwords. The attackers forced their way into the management functions on the equipment, and then changed usernames and passwords on the devices to disrupt the functions. What we're doing right: We have manual override capability, transitioning pumps to manual if the SCADA (Supervisor Control and Data Acquisition) system we have is compromised, which directly aligns with the FBI's mandate to maintain physical and manual operations. Local controls for chlorination: Keeping our chlorination systems on local controls prevents threat actors from manipulating chemical levels remotely, that's the safe part on our part. Redundancy: conducting physical, daily rounds provides an essential physical validation check on our assets. We check our systems physically on a daily basis, not just relying on SCADA itself. Our servers and systems are currently new. In the past few years, we have replaced many of our outdated systems which are more compatible with water technology and equipment. Possible vulnerabilities we have: SCADA exposure via mobile VPN; allowing supervisors to monitor SCADA on personal phones via a VPN means our operational

technology network may still be indirectly exposed to the internet. The most likely way to hack our system is through compromised credentials or an email hack. Our operators should have strong passwords, or even multi-level authentication in some cases. An important consideration is that SCADA is downstream of the firewall. Strong passwords or multi-level authentication are important actions to prevent intrusion. Remember, any attacks should be short-lived because we do check our system daily and can operate them manually if needed. I also reached out to our IT expert, Michael Kozloski and asked him to kind of look at the system a little bit and advise what he thought. He gave us 5 bullet points, and it kind of reinforces what we discovered in our meeting and through our own research. Access to the server is protected by secure usernames and passwords. Our guys use some pretty good usernames, and they're protected. The server is behind a city firewall, as well as another vendor-provided firewall that is specifically only for their equipment. So SCADA's protected by our firewall, and so are the city functions. Access to the server is only allowed through traffic ports, with all other traffic being blocked by our firewall. This type of traffic generally can't cause disruption without someone's credentials being compromised, so that's why we have to have important credentials. The server and firewalls are updated with all the latest security patches, which mitigates the vulnerability risk. Most administrative functions, including the administrative functions exploited in these attacks, cannot be accessed from the currently allowed traffic from outside. Those have to be done on-site via direct access to the server or via a secure VPN connection from the vendor IT. We also inherently block a lot of risky bad actor IP addresses in our firewall, which mitigates potential attackers and blocks certain suspicious behavior as well. In a nutshell, after reviewing our systems, I think I can make the point that we're safer than most. I think our systems are protected, we have our firewalls in place, and I feel much better having gone through this exercise with the City Manager and our department heads. Thank you for putting up with me, I hope this assures some folks that our water and wastewater systems will not be hacked or compromised. That's my report, thank you.

6. STAFF COMMENTS:

City Manager Whitehead: Good morning, we are at the end of August. We've had a busy week so my report is going to be really simple. We spent the week at the New Mexico Municipal League in Las Cruces, going through some education classes and important items, just kind of getting my feet back on the ground. The staff performed well, we still fight water leaks, I checked the list this morning, we're at about 18 active water leaks right now. But things are going well, we're excited, we have Foch Street open, we also patched up another road downtown, you're going to see some contracts today for some streets, so we're really kind of changing our focus. Now that we have our contract with our supplier, Bartoo Sand and Gravel, approved, we're starting to work on some streets, so we'll be over on Cherry Lane really soon, and Arrowhead, we have those two roads scheduled to be paved. We're really excited to get started on Marie Street, we have about \$1.8 million to start working on Marie Street, so we're just waiting for an engineering contract to get that kicked off. Just going to be a busy fourth quarter here, and hopefully we'll get a little focus on streets. The water contractors are just moving along great, I know that it's a little bit of construction fatigue, but they're moving

along, and the right of way is very nice. I haven't spoken with the gas company yet this morning to find out, I'm hoping they're planning on opening South Broadway today, they had a gas leak that was exposed, no one hit anything there, but when they opened the ground to put the water line in, they found gas smell in the area, so the gas company had to come in and replace that entire line, per their regulations. So that's what the holdup has been there in getting that done. With that, I'd stand for any questions, or we can move on.

C. PRESENTATIONS:

Item C2 was moved before the C1.

C2. Proclamation Honoring 103 Years of the Truth or Consequences Volunteer Fire Department.

Mayor Hechler presented the proclamation.

C1. Turtleback Trail Presentation.

Merry Jo Fahl, Jornada RCD: Hello everyone, it is good to be back and to be talking about something other than problems, I'm bringing some good news. Just to give an update and reminder, the Turtleback Trails Network – John Masterson couldn't come today but he sent me his notes from his first meeting, it was July of 2018, so we've been meeting a long time, and we didn't have a lot to show for it, we've got the trail plan done, and that took 6 years. I think we've really done some good things in continuing to meet, our core group of people are still plugging forward. Just a reminder, this is trail plan, mostly following the county and city road on the other side of the river, A005, it will be a walking trail, and a multi-use trail along the roads that are already in existence. The plan also called for improvements to getting in and out of the river, and we called it a river trail. Of course, our main focal points would be foot bridges here, hopefully near Rotary Park, and then one by Williamsburg, and then just continued growth to take advantage of recreation trails. Two years ago, Jornada, who I'm representing today, the Jornada Resource Conservation and Development Council, we applied for some interpretive panels for the outdoor recreation fund. The panels are to be placed along the A005 road, and our plans are to put one every mile. When we were working with the National Parks Service, they provided funds to put in an education sign at Rotary Park, and then there's one at the Williamsburg Post Office, so we're going to replace those signs. We will also have trailheads, we have plans for three; one would be right where you cross the river on the bridge on the Rio Grande where people mostly get in when they're floating, and then one by the low water crossing because a lot of people at that point or shortly after you can go up the hills or continue along A005, and then another one down there. Williamsburg hasn't really been able to determine where they're going to put their bridge, so we want to kind of have it down by there. We're also working with BLM to perhaps deviate from the road itself and kind of across the river where the wastewater treatment plant is, we're going to go away from the road and then traverse about a mile along the river itself just to have more outdoor experiences. We're pretty

excited, and what I wanted to do was give you that update, but I also have goodies. I didn't want to put it in the packet because I want to wait for the public to see it until we have them done, then we'll have a really cool event. There are 7 different signs, different colors, so our logo for the trail is this turtle, and he has different colors in the shell, so red is one of the colors, and so each component of the trail on the red will be about history, and then there's one about agriculture, there's one about plants, there's one about aquatics, there's one about geology, etc. We had a really good group put that together, I had the Sierra County Extension Office, they do the agriculture stats, and we made sure that the stats are listed, we have the date we gathered the stats, so people can reference that. I coerced my daughter-in-law, who is a wildlife biologist, to do the wildlife portion, actually I said I'll trade you, I'll babysit if you'll write this for me. We had the Rock & Gem show write the component for the geology. I got most of the history together from books that Sherry Fletcher had written, so those are in there, the Sierra Soil wrote the plant component, and Mark Hedge did the aquatic component, so we got a good variety, we've been working with Mo to get that done. And this was all transpiring when my husband was quite ill, so it took a lot longer to get to this point than what we had hoped. But we're here, so I'm going to call and order the signs next week, we're going to use the same company the city used when we did the Healing Waters Trail signs. The National Parks Service used that company too, they're very dependable and reliable. We have to have them installed and completed by the end of December. Our trail group started meeting again now that I'm back, and being able to engage, so we're going to have John have an event, and we'll invite all of you and have a ribbon cutting or something, but we're pretty excited to have these because we're finally seeing something produced from all of our efforts. I will be making this presentation, I want to get the county and Elephant Butte engaged, along with Williamsburg. So I'll be making the rounds pretty soon. Do you have any questions?

Mayor Pro-Tem Mitchell: Good job.

Mayor Hechler: Thank you. I remember you working on this and myself tagging along way back when we served together, it's been a long time coming. Science is beautiful.

Merry Jo Fahl, Jornada RCD: It's been a long time. 8 years is a long time to get the first thing done, but I think it's really going to open the door for a lot of opportunities for our community, all of us together. Once we get this done, our group will continue moving forward so that we can start addressing all the other components of our trails, and OJ attends the meetings.

Item F6. Was moved after item C1.

F6. Discussion/Action: Memorandum of Understanding between the City of Truth or Consequences and Sierra County to develop a Riverwalk Trail along the Rio Grande at Ralph Edwards Park.

OJ Hechler, Public Services Director: What you have in front of you is a memorandum of understanding between the County of Sierra and the City of Truth or Consequences.

The Trails Plus grant, what we will be applying for, the application is due September 30th, they have it tiered into three tiers. The first tier goes up to \$100,000, the second tier goes up to \$500,000 and the third tier goes up to \$1 million. For tiers 2 and 3, what the Trails Plus committee wants to see is a regional collaboration. Under this MOU, the city's responsibilities will be ensuring the program activities and finances of the river walk trail are in compliance with local, state, and federal regulations and requirements, managing construction of the trail in accordance with all local, state, and federal standards, distributing and accounting for all grant funds, keeping the county updated on progress and important milestones, designating a point of contact for communications regarding the project, and reporting their required activities and accomplishments to the New Mexico Outdoor Recreation Division. Under this MOU, Sierra County agrees to promote the completed project through social media channels and other marketing efforts, attend and participate in opening and celebratory events such as ribbon cutting ceremony, be available for technical assistance as needed, designate a point of contact for communication regarding the project, reach out to county-wide groups and organizations that would have interest in the project such as outdoor groups, youth clubs, and local chambers of commerce. The project itself will be a concrete river walk trail that is at Ralph Edwards Park between the river and the park, starting at the boat dock, going around the skatepark, and then hopefully all the way down to Riverbend. It will be a trail system, and what I would like to do would be to maybe use some of the Turtleback Trails signage as part of the in-kind match services, because they're beautiful signs, I sit on that committee as well, and they did a great job with those signs. That would be part of it, and then obviously being tier 2 or tier 3, I also want to collaborate with some of the other groups, I'm thinking maybe Geronimo Springs, chamber of commerce, I'll talk with Merry Jo, I know she sits on some committees on how we can truly make this a regional collaboration to strengthen our grant application. Hopefully the county can support our MOU as well, and with that I will open it up for any questions.

Mayor Pro-Tem Mitchell: I think it's a good program, I'd like to see that area developed more, get more usage for it.

City Attorney Rubin: In the big picture, I think getting the MOU approved is going to help with the application for funding.

OJ Hechler, Public Services Director: Yes, that's correct. And we've accomplished a lot with Ralph Edwards Park with grant funding, and we want to keep that momentum going. River walk trail, bird watching, maybe a fishing pier or something of that nature, really capture that park, and also attract a lot of tourism and things of that nature. There is a large market for that, there are people that travel all over to go walk trails, bird watch, and things of that nature. I think it'd be a great addition to the park.

Mayor Pro-Tem Mitchell made a motion to approve the Memorandum of Understanding between the City of Truth or Consequences and Sierra County to develop a Riverwalk Trail along the Rio Grande at Ralph Edwards Park.

Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Pro-Tem Mitchell made a motion to move item G4 up on the agenda to be presented after item F6. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G4. Discussion/Action: Resolution No. 18 26/27 Declaring a Local Disaster Emergency related to the Elephant Butte Reservoir.

Amber Vaughn, Sierra County Manager: Good morning and thank you for having me. On August 7th, Sierra County held a special meeting and declared a local disaster due to the historically low levels of Elephant Butte Lake. As part of that discussion, I began looking more closely at our economic and tourism indicators. Rather than relying just on anecdotal evidence, I wanted to look at several different data points and see what the numbers actually tell us. For this analysis, I pulled several types of data; I looked at the total GRT for Sierra County, Truth or Consequences, Elephant Butte, and Williamsburg, then I broke down the GRT by the different industries, and then looked more closely at the ones affected by tourism. I also looked at the lodgers' tax from all the different entities, and I appreciate everybody forwarding that information to me fairly quickly, for most of the economic data, I used January-June for each year. So we're comparing the same 6 months of data over 4 years, so 2023, 2024, 2025, and 2026. This right here (Slide 3 of the presentation within the [packet](#)) just shows you over the last couple of years the physical condition of the lake. You can see 2023, in blue, was high, and every year after that, we have gone lower and lower. This isn't the first time we have seen low lake levels, 3% was last year, this year we're seeing historically low with 1.4%. I also looked at the people that are actually visiting the lake. We didn't have a lot of data on this, but the ones I could validate were these ones: Memorial day visitation was approximately 60,000 in 2025, and about 35,000 this year. That's roughly a 42% decline. 4th of July was approximately 110,000 in 2024, compared to 82,000 this year, that's a 25% decline. 82,000 people is still a significant number of visitors, but the comparable holiday number we do have indicate fewer visitors over time. On Slide 5, I looked at the GRT as a whole, I didn't break it down by industry. We just looked at this; we may not be having this conversation. Truth or Consequences has actually had its strongest January-June period of these four years at approximately \$3.79 million, so overall GRT does not show that the city, as a whole, has experienced a broad decline. But total GRT can hide what's actually happening to local businesses, so I wanted to break down T or C's numbers just a little bit more. On the next slide, I pulled out the different industries. Retail trade is T or C's largest industry category at just under \$900,000, compared to the county's biggest GRT which is construction. Construction is the second in T or C with \$679,000, accommodations and food is about \$427,000 and healthcare and social assistance is about \$404,000. This is important because T or C has a fairly diversified GRT base. Tourism matters, but it's not the only thing generating revenue for the city. This doesn't tell you exactly what's going on in the individual businesses around town. So the strong total GRT doesn't tell us about hotels, restaurants, visitor-related businesses, or other sectors that can offset. So what did I

include in tourism-sensitive GRT? For this analysis, I pulled three categories that I thought best showed visitor activity: accommodations and food, arts and entertainment, and retail trade. I want to emphasize that I'm calling these "tourism-sensitive", not "tourism-specific". So they'll still have GRT even if we don't have tourism. A resident buying goods or services still generates retail GRT just like a visitor does, a local resident eating at a restaurant is included, and the accommodations and food, so we can't take these numbers and say that tourism dollars are what – so we need to look at these more closely. On Slide 8, I pulled each entity individually. Sierra County has risen from \$993,000 in 2023 to a little over \$1 million in 2026, while T or C moves from approximately \$1.365 million to \$1.342 million to \$1.327 million, so that is a decline over time, you can see it in the chart. T or C's overall GRT is up, but these three tourism-sensitive categories combined have gradually declined year over year.

City Attorney Rubin: So when I'm looking at those four bar graphs you have up there and trying to read it. What is that top number?

Amber Vaughn, Sierra County Manager: This first one is Sierra County and that is \$993,000

City Attorney Rubin: I meant on the Truth or Consequences side.

Amber Vaughn, Sierra County Manager: Yes, that is \$1.384. And then in 2026, it went down to \$1.327.

City Attorney Rubin: Alright thank you.

Amber Vaughn, Sierra County Manager: Yeah, and even just looking at it, we can see that Sierra County's has gone up, while Truth or Consequences has gone down over that time.

City Attorney Rubin: You know, I think what deceived me from my own perception was that if you look at the 2026 bar graph, it only looks about half as high as 2023, but actually the difference isn't quite as stark, though.

Amber Vaughn, Sierra County Manager: Right, and still showing that over those periods of time, that GRT has fallen, the tourism-sensitive GRT. So this right here kind of gives us our first indication that the economy is being affected by lower visitation. The next slide is the other two entities, Elephant Butte and Williamsburg. Elephant Butte went from \$164,000 up to about \$182,000, then back down. Williamsburg is \$222,000 up to \$446,000. These are on a separate page because they deal with smaller dollar amounts so they don't really compare on the same page. The next one I went though was the Lodgers' Tax, this is where I think we see the clearest evidence in the visitor economy, because it's much more directly tied to overnight stays. For Truth or Consequences, January-June, Lodgers' Tax was about \$268,000 in 2024, it fell to about \$252,000 in 2025, and then about \$229,000 in 2026. That's a decline of approximately \$39,000 or 14.7%, compared with 2024. So we're seeing fewer lodging dollars, but we're not

seeing the same decline in overall city GRT. I also looked at the labor market, the February unemployment rate peaked at 7.9%, then declined to 6% in June. January-June, labor force increased by 17, employment increased by 67, and unemployment declined by 50. 6% is still elevated, so I'm not suggesting there isn't an issue, but the most recent data doesn't show continued deterioration. Here's what the data shows. T or C's overall GRT is actually strong, and we see significant activity in retail, construction, health care, and other sectors, but I also don't think we can ignore the warning signs. Lodgers' Tax is down, T or C's tourism-sensitive GRT has gradually declined, and the holiday visitation we can compare are lower in 2026. The labor market showed some stress early this year, although June numbers have improved. My takeaway is that we are seeing some visitor-related indicators trending downward, but because the lake is now extraordinarily low, I think the important thing is to continue tracking these same indicators over the next year or two to see how that affects it. I'm really curious about July's GRT numbers. GRT numbers are two months behind, so I won't get those until September 15th, but I plan on updating this presentation with that information. With that, I will stand for any questions.

Mayor Hechler: So your time frames ended in June.

Amber Vaughn, Sierra County Manager: Yes.

Mayor Hechler: Visitation's been down dramatically at the lake, so the hard numbers are yet to come, is that true?

Amber Vaughn, Sierra County Manager: That is true, July, August, and September are going to be the key months because those are still very heavy Summer tourism months. And we know, anecdotally, I live at the lake, I see there are fewer people out there, and there are not as many people on the water because they can't get there. So yes.

Mayor Hechler: Okay, well thank you so much for taking the time to come and present. I thought you did a wonderful job when we attended the county meeting, and I thought it was necessary for you to be here. So thank you so much.

Amber Vaughn, Sierra County Manager: Of course, thank you for having me, and any time you need me, just let me know.

Mayor Hechler: With that, and the reason I had Amber come to present to us today, I've worked with my counterparts, Mayor Holcomb and Chairman Paxon, and with their respective commissions, they have all passed a disaster declaration regarding our economy and the lake elevations, things of that nature. We're the third entity to do so, and we feel that there is strength in numbers. If all our major entities assume a disaster declaration, or forward a disaster declaration to the governor's office, we feel our voices have a better chance of being heard. With that, I have included a disaster declaration within the packet. If you go to page 421, if you've all had a chance to review, is there any discussion on the declaration itself?

Mayor Pro-Tem Mitchell: I was just curious if anybody had public comment on that particular item and they wanted to speak up before we made a decision?

Mayor Hechler: Does anyone in the audience wish to comment on this particular aspect of our agenda?

Nate Stephens noted that he would like to speak on this topic.

Mayor Pro-Tem Mitchell: This, to me, seems like a very big topic. I understand that the other communities did it, so we probably should too, but I wasn't sure if any of our constituents had any concerns about it that they wanted to be addressed. Originally, it was after public comment, so there wouldn't be an issue, but because we moved it prior to public comment, I just wanted to make it clear that if somebody did want to speak on it, we did not lose their voice.

Mayor Pro-Tem Mitchell made a motion to table item G4 until after public comment. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Discussion was resumed for this item after public comment.

Mayor Hechler: We did have one comment during public comment on this item, was there any further discussion on the declaration? Any recommended changes or improvements?

City Attorney Rubin: And I looked at it, as we talked about, I think it's the usual format we use for a disaster declaration. It has the 4 "whereas" lines basically saying what your authority is to even do it, and then towards the end it tells you really what we're resolved to do, which would include, for example, our position is that we should have this declared as a disaster. Then of course it talks about the economic impact that we're looking at. I looked at it, I thought it was fine, unless anybody had any questions for me.

City Manager Whitehead: I have a few comments. First, I would like to really express my thanks to County Manager Amber Vaughn. We were fortunate to see the presentation, it was nice, I got a little extra time because I didn't have to put that presentation together, she did a great job and I'm appreciative of that. I presented to each of you a document showing the last two years of Lodgers' Tax. That's a prime indicator, and I certainly wanted to make sure that you saw those numbers were relevant. We did see about a 16% decline in Lodgers' Tax from 2024/2025 to 2025/2026. If you've kept up with Angela's presentations through Lodgers' Tax approvals that you've done, they've been conservative because the numbers have been down, and we've kind of been paying attention to that number; definitely, we're seeing that 16% decline. We also had MainStreet reach out and have conversations. I think we might draw a correlation where the lake is not a direct effect on what we're seeing. We didn't break down the Lodgers' Tax to see how much – were the hotels still consistent? Maybe we're losing revenue from Airbnb, they might be using the downtown area a little

more prominently than the lake traffic, so we certainly don't have that number. But in some areas, some of the businesses felt that there was definitely a decline due to the economy. Let's not lose sight of the fact that gas is around \$4 per gallon, diesel is at \$6 per gallon, as I saw when I was driving through the state this week. There are other factors that potentially could be driving what's affecting T or C. But the lake is certainly a significant factor. I've shown you the GRT running that same report to say that we have been consistent. I was reminder that looking at an economic downturn really is looking at it with a recession state of mind. As a financial advisor, those of us who would be looking would know that you never know you're in a recession until the recession is over, which was your point, Mayor. We don't know the data from July and August, we won't see that until September and October. So just bear that in mind that these numbers could continue to trend down. The mayor, his counterparts, and myself all worked together to draft this declaration, and we do want to be supportive where we can to other agencies within our region. If the state park needs assistance with improving the park or providing access with what we have – because again, we do have water, there is availability. But it's amazing, I'll finish with this, we just came back from the Municipal League meeting, it was asked of me constantly, "How bad is the lake?" so the sad part is that that message gets out, the marketing gets out on the bad side, so that has a definite effect even if the lake does have water and there are opportunities to recreate in it. So it may not be directly finding a way to help a business, it may just be us thinking different ways to market and use what we have to remind people to still come to Sierra County, still come to Elephant Butte, and that there are still plenty of things to do, if it's not the lake, it's the trails or downtown. I just want to make sure we have a broad picture, and then more than anything, let you see real data from your financial reports that do support the fact that we are in a downturn of our economy. Thank you.

City Attorney Rubin: I just wanted to mention that when Amber did the presentation, I said something about what I was seeing by the numbers. I did not mean to say at all that I was being deceived by anything she was saying, it was my own interpretation that was a little off. Just wanted to be clear about that. I agree with what the Mayor and City Manager said about how the impact from the last couple months will be very telling. I'm in favor of going forward.

Mayor Pro-Tem Mitchell: My only concern was that declaring a state of emergency almost broadcasts, like Gary was saying about people's perception being "Sierra County is in a state of emergency, don't go there." And I worry about that. But again, if we present it in a way that shows we have to do this in order to be united and stronger if three communities are supporting this disaster, as opposed to just one by itself. I do get that. My main concern was scaring people away, but I also understand that if we're going to try to get any type of funding to help alleviate this, we're going to need to be strong together.

Commissioner Hoepfner: My motto is always "Together we can make a difference" and that is part of it. We help each other here, when there is a disaster or an emergency, I know that Elephant Butte and Williamsburg would do the same for us, to help us get funding, etc. When it comes to things to do in Truth or Consequences or the

surrounding county, there is plenty to do. We should continue using social media to promote the various events going on in town, and we can still show people that yes, the lake is low and maybe you can't go boating right now, but it will help show that we are doing our best to provide services to everybody who wants to visit us. It's still a good place to relax, get away from the city, attend upcoming events, and we are always welcoming everybody to continue to come visit us and support us. I would like to encourage visitors to still visit Elephant Butte and support their businesses as well.

Mayor Hechler: In closing, I will say that many of our businesses rely on our local economy, and we know that the trend is down, certainly with Lodgers' Tax, and some businesses are in precarious positions. It's more important than ever that we support our local communities, support our local businesses, and do whatever we can. Stay off of Amazon visit some of our stores downtown, ask your relatives to come visit our community, there are a lot of things to do. Promote our community whenever we can, I think that's an important thing to do. As I said earlier, the trend that's going to happen, we haven't seen yet. I don't want it to be any worse, but I know that several of our businesses are on the cusp, and we need to support as many of them as we can.

Commissioner Glines made a motion to approve Resolution No. 18 26/27 Declaring a Local Disaster Emergency related to the Elephant Butte Reservoir. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

D. PUBLIC COMMENT (3 Minute Rule Applies):

Alice Hutchins addressed the Commission with comments related to:

- Despite my smile, I am angry, frustrated, confused, dismayed, and discouraged. The people in this county have spent hundreds of hours researching data centers and the things involved around them. You know what would be amazing? If our elected officials county-wide would reach out to the people in this community and say, "What do you know? How can we learn? How should we move forward or not in this area of potential growth?" yet when Jason Bak of Green Data, and James Prendamano of PreReal call, there is time to listen to an official presentation. What was said? We want to know. Data centers are the next great hope for Sierra County? Money to be made? Good paying jobs? What did they promise us? Why were they not invited to share the information with the citizens of this county? We want to hear what they have to say, and we want them to hear what we have to say. It's reported that Jason Bock called the members of project consequences "uneducated people who don't believe in facts or science" how did he reach that conclusion having never held a conversation with a single one of them, not knowing a single aspect of their backgrounds? This kind of dismissiveness and disrespect is fuel to the fire of anger growing in the bellies of Americans all over this nation. At the heart of anger is always fear, and we are afraid. Afraid of having our quality of life diminished or destroyed by people who care about themselves and their bottom line only. Our elected officials are a fragile firewall between us

and the waves of money, greed, and misinformation headed our way. In this instance, I am really grateful that New Mexico is always a step behind the rest of the nation. We can clearly see what is happening to our neighbors. Texas just paused 1,800 new data center construction over power grid concerns. The rest of the country is in an uproar. The handwriting is on the wall. We are really angry and you all are getting the brunt of it. I know you love this community and serve out of a desire to chart a path forward in the best interest of us all. But you can't be followers, you have to do the research, you have to be wise, you need to lead this community. Dolly Parton, may she rest in peace, said, "If your actions create a legacy that inspires others to dream more, learn more, do more, and become more, you are an excellent leader." We are rooting for you, we need your courageous leadership now, more than ever. Thank you.

Micheal Hutchins addressed the Commission with comments related to:

- Some of our elected officials are meeting privately with real estate and tech moguls to discuss placing data centers in Sierra County. This information should be shared in a public forum where we can demand full, honest disclosure about data center technology and environmental impacts. Please consider the following on data centers:
 - Jobs – There are good-paying jobs for constructing data centers, from about 50-2,000 depending on the size of the project. Post-construction, those numbers drop significantly. Be wary of job claims that are mostly short-term, likely for out-of-state workers, and come at a huge environmental cost.
 - Secrecy – Google and the Dalles, OR spent 13 months fighting to hide Google's total water consumption. They claimed this information was a "trade secret". The public eventually learned the data center uses 1.9 million gallons of water per day. Be ware of non-disclosure agreements and data kept "secret".
 - Rish – Data centers have proven to be noisy, polluting, energy-guzzling neighbors. Ask hard questions of these moguls like, "How will they clean their systems without spilling toxins like Meta did this February in Cheyenne, WY?" "How will they power their cooling units without increasing costs to the current grid users? Will they mitigate noise pollution?" Be wary of big talk with no answers.
 - Water – Yes, the desert's low humidity speeds direct evaporative cooling. The problem, though, is that the total amount of water is both direct and indirect need for this cooling. The direct water need ranges from thousands to millions of gallons of water per day, depending on the size of the data center. And the Indirect consumption is up to 12 times higher. More efficient alternatives like closed-loop systems use less water for cooling, but require huge electrical needs from off-site power sources. The environmental impact is relocated rather than eliminated. Brackish water cooling can reduce pressure on freshwater supplies and meet sustainability goals, but it introduces corrosion, scaling, pretreatment,

brine disposal, and compatibility issues. Be wary of those touting new technology that just creates different problems.

- China – Some believe we need more data centers to stay ahead of China. The United States currently has over 4,700 data centers across all 50 states and 5 territories; about 45% of the world's data centers. China is fourth in the world, with 449 data centers. We have already won the race with China, 10 times over. Be wary of false claims of staying ahead of competing nations.
- I do not believe we should allow data centers in a desert environment like Sierra County. The risk to our surfaces and sub-surface water is too high, the environmental cost outweighs long-term jobs, and those promising these data centers do not have Sierra County's best interests at heart. AI is expanding faster than regulations, so my bottom line ask for each of you is; be wary. Thank you.

Sulome Anderson addressed the Commission with comments related to:

- I would just first like to say that I did not come to Sierra County to start trouble, I came here to rest and heal myself from a lifetime of trauma, relax my nervous system, and raise my child differently than I was raised. You know why I'm here. We at project consequences know about these meetings. We know what was said in these meetings. We know that Jason Bak sat there and lied to you, and you know why we know that? Because we've had actual scientists and experts in their field examine the claims that he's making to you in these private, backdoor meetings, and they are completely untethered from scientific and technical reality. You are being grifted. We want you to know that. And if you're being grifted, we are being grifted, so we ask you, please, to understand that when Jason Bak and these people in these meetings are laughing at us and calling us cavepeople, saying that we're uneducated, they're not actually laughing at us, the opposition of this movement, they're afraid of us. They are laughing at you because they are looking at you and seeing people that they think are too gullible to check their claims. They are looking at you and seeing people that they think are so desperate for their cash that they will take anything and believe anything without checking the science of it. We ask you to please check with experts about these claims.
- I would also like to say that we, at project consequences, get a reputation over anti-industry, anti-business, and anti-economic development. That is not the case, we are 100% pro-healthy economic development in this area, in this region, and in this county. We invite you, as our elected officials, to think about the fact that your constituents hate this. And I'm talking a majority of your constituents on both sides of the aisle. If you think it's just democrats, you're mistaken. I'm an independent, and we have conservatives coming to us all the time privately and telling us how grateful they are for our efforts. Please understand that this is widely reviled by your community. Please keep that in mind.
- We also invite you, as our elected officials, to conduct yourself in private the way you would want the community to hear you conduct yourself in public. We also invite you, as our elected officials, to please think about industries that work for

this community, that actually employ members of this community, so that the members of this community can access their goods and services, that just don't put money in the pockets of out-of-state and out-of-town grifters who are trying to make a cold buck from this community. Let's think about that, let's work together on how to see this community thrive in a healthy way that is good for us all.

- I would also like to say that project consequences really asks you to consider what your constituents want. Please understand that we are here not to fight with you, not to argue, not to sit here and scream at you and be disrespectful, that is not our goal. What we want is to work together in a way that is healthy for this community and that your constituents actually want. Please vote for us and not for these people with a lot of money and promises and nothing to back it up. Thank you.

Steve Green addressed the Commission with comments related to:

- There isn't water, water everywhere, and yet we are connected with our neighbors and share the rewards and the disappointments of water's existence. No city should ever stand alone, and I encourage the Commission to support the disaster declaration issued by the county and Elephant Butte. Our most important asset for survival is water. It's front and center in discussions about data centers. Large corporations are looking at New Mexico and possibly Sierra County for their data center home, because why? Cheap land. They think we're not sophisticated, and they can just run over us. We are so hungry for short-term gains that we lose sight of our future. Yes we need jobs, yes we need appropriate businesses that add to our economy without taking our future away, and that's what a data center will do.
- The county got it right with a resolution that has put a moratorium on any data center coming into land governed by Sierra County for 18 months, to have the opportunity for fact-checking, including water studies and down-stream impacts. As an aside, in one winter our sheep farm got 240 inches of snow in upstate New York, that is the type of area that can support, and where data centers should be built, not in the Sierra County and Chihuahuan desert.
- Water and its appropriate usage will determine the very future of our existence. Drought, climate change, water compacts are real. Let us be careful and thoughtful stewards of the land. It is our gift to our future generations of our citizens, tourists, ranchers, farmers, and businesses. Thank you very much.

Nate Stephens addressed the Commission with comments related to:

- Good morning, Commissioners, and more importantly, good morning to everyone listening at home. I want to ask Sierra County a question this morning. While we are fighting amongst ourselves, are we missing the boat?
- Think about how much energy we spend fighting. Citizens organize, petitions are circulated, lawsuits are filed, industry hires attorneys, lobbyists are hired, politicians are pressured, neighbors become opponents. Millions of dollars, thousands of hours, and an extraordinary amount of human intelligence are spent deciding who is right and who is wrong. Meanwhile, our young people leave, businesses struggle, buildings sit empty, infrastructure gets older, our tax

base struggles to support the community we want. Another year passes, then another, then another. So I keep asking myself: What if we pointed all that energy in the same direction? What if instead of spending millions of dollars fighting over development, we invested more of that money, intelligence, and energy into figuring out how to develop responsibly? What if the environmentalist sat beside the engineer? What if the fisherman sat beside the developer? What if the farmer sat beside the water scientist? What if the citizen who fears industry sat across from the company that wants to invest here, and neither one began by asking, "How can I defeat you?" What if instead they asked, "How do we solve this?"

- Because the problems are real. Water scarcity is real. Economic decline is real. Our children leaving Sierra County because they cannot find opportunity is real. And the responsibility to protect this extraordinary place is real. But none of those problems will be solved by standing on opposite sides of the street yelling at one another. Problems are not solved by choosing corners, they're solved by choosing a table. And Sierra County has the opportunity to build that table. Beneath us may be geothermal energy, deep brackish water, and potentially recoverable minerals that deserve serious scientific investigation. Imagine producing reliable clean energy here. Imagine developing alternative industrial water sources instead of simply competing for our precious fresh water. Imagine recovering useful minerals from that water, treating it, and putting it to beneficial use. Imagine attracting new industry because Sierra County can offer something extraordinary; energy, water innovation, open land, technology, and accountability. Then imagine telling industry: "Come build here. Come invest here. Come create jobs here. But if you come here, you will protect our fresh water. You will protect our land, you will measure your impact, you will publish the results, you will be held accountable. And you will leave Sierra County better than you found it." Why is that impossible? Why must our choices always be development or environment? Jobs or water? Industry or our way of life? I reject those choices. I believe we can protect the river and create the jobs. We can protect the aquifer and grow the tax base. We can welcome investment and demand accountability. We can give our children opportunity and still leave them the mountains, water, and open country that were left to us. But we have to be willing to sit at the same table. Bring the scientists, agriculture, environmentalist, industry, our elected officials, our citizens, and especially bring the people who disagree with us. Put the evidence in the middle of the table, and if the science tells us something cannot be done safely, don't do it. If the science tells us a resource needs protection, protect it. But if the science shows us a responsible path forward, then we need the courage to take it.

Cheryl Ray addressed the Commission with comments related to:

- We all bear some responsibility for being asleep at the wheel as big tech rammed these AI data centers through. But the subterfuge and arrogance is especially galling in the case of Spaceport America. They were mandated, on our dime, to do aerospace and to attract aerospace tenants. Five AI data centers really strain the definition of aerospace tenancy, and yet here we are. Under cover of

darkness and zero public participation, Spaceport drafted a sublease with a tech CEO who has a very shady history, and no actual experience building a data center. As I understand, this sublease is currently awaiting approval from the land commissioner. Did Spaceport even vet this guy? Was the carrot he dangled before them so enticing they went into denial over his complete lack of experience and accomplishment? Did they ignore something so basic as the fact that we just don't have enough water or energy for a project like this? I know the potential to expand the tax base is very tempting, but if the inexperienced and unsuccessful Green Data CEO is lobbying you in private, please don't fall for it. Like all the predatory actors of big tech, he is all stick and absolutely no carrot. Thank you.

Stacy Hay addressed the Commission with comments related to:

- What I want to present is in California, where I was living before, there was a gold mine that was put in in 1980, this was before they had to have bonds. This gold mine, over the years, it was there for 20 years, that's it, it took out a high school, an elementary school, it displaced a whole community. At the end, the company was a Canadian company, and they filed bankruptcy, and they did not clean it up. They left this mess for us, the taxpayers of the county. And later, when that piece of property, after it had to be cleaned up, still wasn't clean enough for it to have anything else to do. So it sits there empty, and it sits there raw, and it's not being used because it's still not cleaned up enough, even though the county paid for it, us, the taxpayers. So if anything is going to be done, you better have millions of dollars set aside in a bond so that if anything happens as far as data centers or whatever, to clean it up, because it's going to happen. You're going to have to clean up the mess and we're going to have to pay for it.

Mayor Hechler: Thank you everyone for your presentations and candor, I think they were well-received and we listened to them. Thank you so much.

E. CONSENT CALENDAR

1. Acknowledge purchase report of items under \$60,000
2. Take Home Vehicle Form: Police Department

Mayor Hechler moved to approve the agenda as submitted. Mayor Pro-Tem Mitchell seconded the motion. Motion carried unanimously.

F. NEW BUSINESS:

1. Discussion/Action: Land lease agreement with Love's Travel Stops & Country Stores, Inc.

Assistant City Manager Alvarez: I'll give some background on this, and then refer over to our City Manager while they work on getting Barbara with Love's Travel Stops connected, since she'll be attending virtually. Love's is requesting a lease of approximately 350 square feet of city-owned property near exit 79 for a directional billboard. There is a draft lease included within the packet, we do have some edits; a

little bit of back and forth between our City Attorney, as well as Love's attorney, that we will still need to finalize. We did a comparison for the land lease, we based that off of the appraisal we had done for property land lease out by our airport, so that only came out to an estimated \$14 per year. What we're proposing is maybe an annual rent between the \$500 to \$1,000 per year range, I think Love's is looking at maybe a \$750 per year to lease that small section of property. Love's would be responsible for permitting, construction, utilities, maintenance, insurance, and removal and restoration of the sign. The purpose of the sign is to make sure the trucks see clear direction to go towards the Love's Travel Stop as opposed to either getting back on the freeway to head south accidentally, or turning the wrong direction and heading in through town, and potentially having to pull the big rigs through town. With that, I will turn it over to the City Manager for his statement.

City Manager Whitehead: Just to support Traci's presentation, if everybody remembers correctly, as we've worked our way through the Love's application and getting them onboard, one of the items they had asked was if it would be possible to lease space on our water tanks. We had talked about that in several meetings, they recognized that they wanted to put something on the tank that would help direct users to their location. In those meetings, we had proposed doing something with that, and then sharing another tank where we would put something that would be, "Welcome to the City of Truth or Consequences" and we kind of went back and forth. In conversations with Barbara and the staff, Love's had indicated to us that they felt like that would be a little bit of liability for them, painting the tank. They had seen situations where they've seen where the paint could be corrosive or cause problems, so they kind of backed off of that idea and we started pursuing this idea of a billboard. As you know, there are five billboards at the airport property that I've talked about over the course of the last year. We did extensive research, I have to thank Angela, the staff, we looked hard to find those leases. We could not find a contract for any of those particular leases, but what we did recognize, in conversations, was that those billboards have been leased for more than 50 years to individual users. Those users pay about \$150 annually, but they only lease the land, the city does not own the billboard. The individual then has to make an application to NMDOT, follow the proper sign ordinances, and then they're responsible for all the information that goes on that sign. In that research, I was hoping to really craft this proposal off of that, but it turns out we really don't have it, so we want to probably use this item to craft future leases in the future. I want to be fair and open that those billboards at the airport have been used for a long time under a same/similar condition, the owners receive an invoice, they pay their bill, they've not asked any questions. So I don't want to say that we're looking to raise their rates from \$150 to \$750, but we do need to look at those, make sure they're properly contracted, we know how they get handled, and then kind of follow the same terms. In this particular lease, what we would be proposing is similar, we would just lease the land. This would be inside the fenced area around our water tank, there is sufficient area to move, it would not hinder anything that we do, it wouldn't be in the way. We offered that we would not provide any electricity, so the sign will have none, they'll have to figure out a solar application or some type of reflective paint. Our recommendation is that we follow what we had started with them, we back off the tank presentation, and move to this billboard

opportunity. I thank Assistant City Manager Alvarez for working so hard on ensuring that we're within policy, within code, and everything does seem to be in order. With that, you are welcome to visit with Barbara and ask any questions that you might have.

Mayor Hechler: I'd like to acknowledge that first of all, there is a need for a sign there. I live pretty close to that area, and constantly I see people going down towards the interstate because they see the Love's sign high in the sky, and they'll turn left, and then they're back on the interstate and they miss Love's. That's a traffic hazard that needs to be rectified, and it's happened on several occasions, so we need to put something there. I'm glad that you're thinking about it and willing to move forward. If you break it down per square footage, it doesn't make sense because it doesn't even pay for the cost of administration. To administer this lease and things of that nature, we need to have a base pay. I think that should serve as a formula for other base situations like that in the future. So I think we need to come up with that to some degree. I also want to be cognizant that when you put a sign up, I know they may only take 32 square feet, but it influences whatever else goes around that sign. So although the lease itself only picks a small percentage of the area, it does influence a larger area because of the virtue that the sign's there, and that other things can't be built close to it, and that does change the narrative to some degree. There are some opportunities lost in some instances if we go that way. So in my opinion, we should establish a base pay, and then above that, we can figure out if there's any other percentages we want to add to it. If we want to take a base and then add a percentage like the 14 or so foot on top of that, we could come up with some different scenarios. That would be my recommendation.

City Attorney Rubin: One thing I would just mention is that as Ms. Alvarez pointed out, there have been some versions going back and forth, we got a redline version. We still saw a few things in the lease that we still might want to work out. I think the idea, and correct me if I'm wrong Ms. Alvarez, but I think the idea might be that if we can agree on what the rental amount will be, you might want to just agree to the concept of the lease, and then allow us to make whatever additional changes we might want to make and authorize us to go forward without having to bring it back to the Commission. Is that correct?

Assistant City Manager Alvarez: Yes, if I could also just add, this is just for the land lease. We do have a process through zoning that they will still have to go through for the signs, and there are fees associated with the size, dependent on the sign as well.

Mayor Hechler: Is there anything you'd like to add Ms. Peck?

Barbara Peck, Love's Travel Stops: Thank you. I really think you kind of covered everything. We're trying to get that traffic to keep going past the southbound onramp. Like you said, they're really seeing that sign. Our sales numbers we anticipated that we had reported to the city, as we were going through the process of the development permitting were not getting to those levels. We're less than 50% of where we need to be. The earlier conversation in your meeting about the economy, we recognize that has a certain amount of impact to it as well, but it just makes it even more critical for us to be

able to find a way to maneuver those big trucks past those water tanks to get to our entrance. We're certainly open to other ideas that folks have, we are working and waiting on the state for the blue board signs that are at most exits. We call them trailblazers, but they have the arrows on them pointing you in a certain direction. However, the state is going through an RFP process and we've been told it could be 18 months or more before they have a new contractor to manage those blue boards. This is another way for us to try and solve the overall problem. We really appreciate the city working with us and having this as an opportunity to present to the Commission today. We hope that you will take it under advisement and help us help the community.

Commissioner Glines: My main issue is I see a future of having art on water tanks in this town, up and down I-25, and we don't have that presented in our city. I know it's kind of a steep edge when you come off those water tanks towards I-25, how high is that sign going to be? Would it actually block the water tanks themselves? I can see it on the map but I don't have a good point of reference of how close that is. It almost looks like it's down in that parking lot, that turnaround area on the dot, but I don't know if it's right up on the water tank along the fenceline, which would make it higher.

City Manager Whitehead: We've not actually walked the site, but our vision is that the sign would be just high enough to extend past the height of the fence, which is 6 feet. And then it would be in a location kind of in between the two tanks. It would probably need a little walkaround to make sure we accomplish that, because I agree that if there was a project that needed to be there, we'd want to accomplish that. We would also want to make sure we could accommodate potential other users, we definitely don't want to just favor Love's, if you will, if some of the downtown businesses or someone else wanted to put a billboard and needed to use that space, we'd want to make sure we have enough space to accomplish one or two, so that if another business wanted to lease that space to direct traffic, we'd need to be open to that. I certainly would indicate that we can definitely get up on-site and look and find the most advantageous spot. I didn't measure it, but there's about 35 feet between the tank and the fence, so it could be done in an area closer – we would want to put it as close to the fence as we could so that it never interferes with our ability to maintain the tank, work on the tank, drive around the tank, etc. So we can certainly look further into that.

Commissioner Glines: My next thought is, is a billboard there our best idea going forward, when we could have wayfinding signs, I know we don't even have the true wayfinding signs besides "Las Cruces, Left" and that sign is perpendicular to the road itself, if not past it, as you're going up Hubble toward Love's. If we added a simple wayfinding sign there also – maybe a Love's sign with an arrow? NMDOT style with the blue and then the gas, that could also be useful, it would be a small road sign and we could put three of them across there also.

City Manager Whitehead: I think it would be worth our time to investigate what we could do at the actual exit on both sides to do wayfinding for everybody so that when you come off the freeway, you get a clear opportunity. They would be paying to put a sign that just continues to move traffic over, but it would be worth our time to find that and

see if we couldn't do that. As you know, we just did an MOU with the county because that land right on the other side of the freeway is privately owned, but it's in the county, but there could be some workaround we could do there and work on that as well.

Commissioner Glines: I don't mind the idea of a billboard there, I just think it would also be advantageous to have billboards for local businesses here so that you can get the traffic to Love's, they see the billboard, and we get them back in downtown. I'm not specifically worried about the trucks, but of the advertisement space if we're going to lease it out, not just specifically to Love's. Something to look more into for future use of the land.

City Manager Whitehead: We could agree with that.

Mayor Hechler: I think we can acknowledge that we need to enter into some type of agreement because the pressing issue here is traffic, and we need to create a safe passage for folks, it's a safety concern for us. We have to move on something, I think I'd like to leave it up to management to negotiate with the discussion that we had, and then come back to us on the placement of the sign so it doesn't interfere with the water tank itself, and potentially to provide other ways to advertised our community.

Commissioner Glines: As far as the number goes, I agree with you, I feel like per square foot, that's very, very cheap compared to what we recommended for the \$1,000 using the airport appraisal rate. I don't know what to recommend as far as more.

Mayor Hechler: I think there's a base rate that for all applications, this should have a base rate, there should be a minimum charge for anything that we do along this line. Whether that's \$500 or \$750 per year, that should be a minimum charge. And then above that, we could add square footage or something along those lines. That would differentiate those things a little bit, compared to what they're trying to do. I think I would leave that up to the City Manager to negotiate and report back to us.

City Attorney Rubin: Do we need to actually have a figure? I wasn't sure what you said about the rental, I don't really know where we were on that. How did you want us to proceed on that? Or did you want it brought back to you for your determination? I wasn't clear on that.

Mayor Hechler: I think we want to figure out what the base rate's going to be, no matter how makes the application. Obviously, Love's is a multi-billion dollar corporation that can afford anything we ask, but we're not going to do that. We want to be fair across the board, so it's got to fit a lot of different scenarios, and I think that's worth discussion.

City Manager Whitehead: If you look at the presentation we've made, we anticipate it's something around \$750 annually for that base rate. We're getting \$150 – again, using the square footage from the lease that we have, we've done an appraisal on our land to see what it should be, and the lease would be \$14.50 by that. Even if we used a base rate, plus the square footage, if we did \$500, we're still not going to get to \$750, so it's my

recommendation that we perfect the lease in and around the \$750 mark, and if you feel like you want to set a rate of \$750, plus square footage cost based on the appraisal, I would ask that you make that in the motion, and then we would just negotiate that. In this particular case, the base rate would start at \$764.50. It would be that rate for five years, and then there would be an escalator based on the economy, to go up after the five years. We would propose something like that, where it's set, and then it has an escalator, and it climbs as we go. Our recommendation would be \$750 should at least be the base rate at this point.

Mayor Pro-Tem Mitchell made a motion to allow city staff to negotiate a lease agreement with Love's Travel Stops & Country Stores, Inc. for an annual lease rate of at least \$750 and authorize the City Manager and City Attorney to finalize and execute the agreement. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Hechler: I am curious about the placement of the sign and its surroundings. I don't know if we need to bring that back or not, I would trust you to do it in a way that –

Commissioner Glines: It's going to the Planning & Zoning Commission, right?

City Manager Whitehead: It depends. It doesn't necessarily have to go. Based on the sign application process, the size they pic would fall within the code, but we definitely have the ability to meet with Barbara and their staff on-site and go look at the actual location and identify that clearly, where they get clear line of sight visibility from the turn, and we protect the tank for future art. I think we could find that perfect spot and then develop it.

2. Discussion/Action: Conditional Use Permit (CUP) – Shipping Container at 818 N. Magnolia Street.

Assistant City Manager Alvarez: The owner is requesting a Conditional Use Permit to allow an existing shipping container to remain as an accessory storage unit on the residential property. The owner was unaware of the requirement, so we're bringing them into compliance right now. This went before the Planning & Zoning Commission and there was no opposition. The Commission unanimously recommended approval. With that, I will stand for any questions.

Mayor Hechler: There were extensive notes by the Planning & Zoning Commission, so I think they asked a lot of the questions that we wanted to know about, and I think that is sufficient.

Mayor Pro-Tem Mitchell made a motion to approve the Conditional Use Permit (CUP) – Shipping Container at 818 N. Magnolia Street. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Conditional Use Permit and Variance Requests for Parcel #2878573667187.

Assistant City Manager Alvarez: Ready Rigs Towing is requesting a Conditional Use Permit, as well as three Variance requests, for a secure towing and impound facility. The property is located in the C-1 commercial district. The facility would allow local law enforcement impounds to remain in Truth or Consequences instead of them having to take them to their main facility in Anthony. The Variance is to allow the storage of impounded vehicles for more than five vehicles outdoors, as well as a potential 550 square foot office building instead of the 800 square foot. We did present this to the Planning & Zoning Commission, there was a neighboring resident that raised some concerns regarding noise, lighting, and trash. The Commission did unanimously recommend approval, with conditions requesting the towing company address some of the noise and light impacts. We also recognize the fact that this is a Conditional Use, subject to annual review. The towing company will not be doing private tows, they will just be working with our local city, state, and Sheriff's Department for impounded vehicles during a law enforcement process. With that, I stand for any questions.

Commissioner Glines: Do we have the actual list of the approved towing companies that these law enforcement agencies call? How many people are on that list total?

Assistant City Manager Alvarez: Ready Rigs Towing is here to answer questions.

Humberto Valenzuela, Ready Rigs Towing: I believe there are 4 companies, one of them is us.

Mayor Hechler: And the way it works is that you're rotated a week at a time?

Humberto Valenzuela, Ready Rigs Towing: Yes.

Commissioner Glines: I guess my idea is, we're taking cars from downtown T or C to some sort of border of Texas, across counties, I don't understand why we're so far outsourcing a towing yard. This is just me trying to understand how this works.

Candy Torrez, Sierra County Dispatch: They are on rotation for a week, 7 days. Every Sunday we change out the rotation. There for a while, we only had 2 wreckers that were on rotation, one of which hasn't answered our calls since December. So technically, we only had 1. We also had Bartoo, but they're more class D wreckers for the bigger RV's and stuff like that. Our biggest concern was officer safety – if they're on the side of the highway and they have an arrest, they have to stay with that vehicle, as well as the arrestee until the wrecker company comes. Sometimes it would take an hour, maybe even longer depending on where they were coming from. We would also have to call out to Garfield sometimes as well, which is also out of town. It isn't that far, it's closer than it is where they're at, but that's why they're trying to get this yard so that we can have a closer wrecker company for our officer safety concerns.

Mayor Hechler: The other wrecker companies, do they have storage capabilities for vehicles? Or is our only storage capability in Anthony?

Candy Torrez, Sierra County Dispatch: I believe Sierra Collision has a tow yard, and Karr's Towing has a tow yard, but Karr's Towing hasn't answered us since December, and they haven't had a call-out since back then, and it was only one wrecker.

Mayor Hechler: How often are vehicles towed?

Candy Torrez, Sierra County Dispatch: Quite often; accidents, arrests, it can vary.

Mayor Hechler: Thank you for representing that. There's a lot of down time sometimes when an officer get on-scene and has to tow a vehicle, trying to find a wrecker service.

Candy Torrez, Sierra County Dispatch: Absolutely, our biggest thing was officer safety. If they're on the side of the interstate waiting for a wrecker with an arrestee, there's always the worry that the arrestee can get violent, or they might already be violent. We have to have an officer wait, so we have to take them off the street too, or have another officer come on-scene so they can wait for the vehicle. That was our biggest concern, having extra help, really.

Mayor Hechler: I noticed there's a letter of support from your organization.

Candy Torrez, Sierra County Dispatch: Yes.

Mayor Hechler: Thank you.

City Manager Whitehead: I'm fortunate to be able to talk with some knowledge about this, because I owned a towing company. Let me express that one of the challenges you have in the tow business is this type of a call, because when you're on rotation, you accept the call, you have to take the car. So it ends up in your care and custody. A lot of times you're picking up vehicles that the owner doesn't want to come back for. Let's say there was an accident and the car was destroyed, and there's no insurance. The towing company is stuck with that car until they can go through the process to get the title, which takes some time. In your image of them moving it, it's a nice accommodation to make sure that if they pick up a car that the owner could come back for, that it's here in our community so that the owner can pick it up here. That's the reason to give some extra time for those cars to be here. But if those cars are destroyed, damaged, or need to be put in the tow yard for up to 120 days – sometimes I couldn't get a title for more than a year and I'd have to take care of that car just to take it to an auction to get \$50 for it. So there's a real challenge for the tow companies, and that's the reason why it becomes difficult, I would assume, with the other local providers. Their yard gets full, they get to a spot where there's no money in it, so they just choose not to take those calls. So what you're looking at here is, if they leave the cars on the site that are able to be picked up, the local folks can pick those up, and then after a period of time, they would take those to their tow yard in Anthony, and then deal with it and dispose of it

themselves. What we would hope, and when I spoke with Traci about this particular application, I for no owner to have to drive all the way to Anthony in the morning to pick up their vehicle. It would give them that opportunity.

Commissioner Glines: I mean, that's an hour and a half to two hour drive from Anthony to T or C, how does having that tow company have a storage lot cut down on the amount of time the officer is on the highway with the vehicle? Were they planning on having a tow truck driver on-call in T or C along with the office?

Humberto Valenzuela, Ready Rigs Towing: We do currently have that. We have a tow truck when we're on our rotation here for the whole week, so they respond right away.

Commissioner Glines: So they're not leaving from Anthony to here?

Humberto Valenzuela, Ready Rigs Towing: No, they're here, and once we pick up the vehicle, right now we have to take them to Anthony because we don't have a storage facility here that is PRC regulated.

Commissioner Glines: That makes more sense.

City Manager Whitehead: And Humberto brought up a great point, they are regulated by the Public Regulation Commission as well. So not only do you have to give them permission, they have to go through those state ID's. Part two; Central Dispatch does a nice job trying to find, in this case, four providers that they can create a one-week rotation with. So everybody get a little piece of the pie, but if nobody responds, they could reach out to the next one, which could be Garfield, and if they couldn't come up, they could reach out again to this company and they may have to come all the way from Anthony if they're not on rotation but nobody accepts the call. At the end of the day, the vehicle needs to get picked up and that's where the law enforcement officer would be kind of stuck waiting for someone to come and get that vehicle if it was to that level.

Mayor Hechler: One of the concerns is that we pick up these vehicles and they're not operational and you have to hang on to them for six months to a year. What keeps you from storing more and more vehicles on that lot? Is your intention to move them out and store them somewhere else for long-term use? Is it just for temporary use? How is it going to work?

Humberto Valenzuela, Ready Rigs Towing: We'll just keep them there while we get the paperwork ready and get the titles. Once we get the titles, we will be transporting them down to Anthony to scrap them, sell them, etc. That's our intention.

Mayor Hechler: And those are the ones you're going to have to keep long-term. Short-term use, though, would be more convenient for people that have their vehicles towed, right? They'll be able to get them right away if they have the proper paperwork?

Humberto Valenzuela, Ready Rigs Towing: Yes, sir.

Commissioner Glines: As far as the Variances listed for the 500 square feet instead of 800 square feet, it's a prefab building, which I saw in the minutes, is that going to be a permanent structure or a temporary?

Humberto Valenzuela, Ready Rigs Towing: It's probably going to be a pre-fabricated office or mobile office we've been looking at.

Mayor Hechler: It's not there now?

Humberto Valenzuela, Ready Rigs Towing: No.

Mayor Hechler: You have something in mind to put there?

Humberto Valenzuela, Ready Rigs Towing: Yes.

Assistant City Manager Alvarez: That will still have to go through the zoning approval process as well.

Mayor Hechler: The other thing you want to keep in mind, Commissioners, is that this is a Conditional Use Permit, so it will be reinspected after a year, so if we have issues or problems with this particular facility, then we don't have to reissue the permit. I think that's an important consideration, you know, nobody likes a junkyard in their neighborhood. I know you're not going to try to operate it as that, I'm hoping you'll stay on top of it and move vehicles out, it's good for the area, and if that's the case, we can reissue the permit when it's appropriate.

Commissioner Glines: On those notes, there's not even a full block between the next tow yard and this location.

Mayor Hechler: Manager Whitehead, you have some personal knowledge about this area, is it conducive to this kind of an operation?

City Manager Whitehead: Yes, I do own a piece of property in the back that we used for that, we went through the same process when we owned our tow company, and set that up. It is, I think their access looks correct, they have a proper easement, entrance. I'll remind you, the Public Regulation Commission requires that they have an office, and requires that it's fenced. I think once you approve this, then they would begin that process, and then the Public Regulation Commission would measure it, see it, and then provide them their permit based on that. But the area is acceptable for that, provide that they follow – we put up a fenced area, the last permit you allowed, they're finishing up their fence to make sure you can't see it, and if it's done correctly and managed properly, it should be fine.

Commissioner Hoeppner: I have a question about environmental impact. Because we are talking about accident cars, there are liquids and everything. So if, in a year, as an

example, we would say, "Who's responsible for the cleanup afterwards?" there will be for sure some kind of environmental impact. How easy is it to clean up the property afterwards? Environmentally, if you have a car, it has oil and brake fluid, and other various liquids. So would your company say, "It's not our responsibility to clean up." Or is it part of the agreement or a requirement from PRC that you will be responsible for hazardous cleanup?

City Manager Whitehead: I don't believe in our code there's any requirement for cleaning. Again, this is a private piece of property, the owners own this property, and I would assume it's their responsibility to make sure that it's environmentally sound, clean, and in good order. But you're correct, there could be a car that sits there and leaks oil onto the ground and those kinds of things.

Mayor Hechler: Wouldn't the PRC take care of some of that at the end?

City Manager Whitehead: No, I can't say, in our inspections that I went thorough, that the PRC questioned the material that was on the ground. They mostly questioned if the building was the right size, if the public could access it, and if it was fenced and safe.

Mayor Hechler: Do you drain these vehicles when they come in if there's a leaking oil tank?

Humberto Valenzuela, Ready Rigs Towing: No.

Mayor Hechler: Are they set on concrete or on dirt?

Humberto Valenzuela, Ready Rigs Towing: Right now it would be dirt. We're going to try to get gravel on there, screening.

Mayor Hechler: And do you mitigate spills, things of that nature?

Humberto Valenzuela, Ready Rigs Towing: Yes.

Mayor Pro-Tem Mitchell made a motion to approve the Conditional Use Permit for Parcel #2878573667187. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Pro-Tem Mitchell made a motion to approve the Variance Request to permit storage of customer-owned impounded vehicles pending legal disposition for Parcel #2878573667187. Mayor Hechler seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Pro-Tem Mitchell made a motion to approve the Variance Request to permit the storage of more than 5 wrecked or impounded vehicles on the site for Parcel #2878573667187. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Pro-Tem Mitchell made a motion to approve the Variance Request to allow permanent construction of an approximately 550 square foot office building in lieu of the minimum 800 square foot commercial building requirement for Parcel #2878573667187. Commissioner Hoeppner seconded the motion. Roll call was taken by the Clerk-Treasurer.

Hon. Chaz Glines, Commissioner voted nay

Hon. Rolf Hechler, Mayor voted aye

Hon. Destiny Mitchell, Commissioner voted aye

Hon. Ingo Hoeppner, Commissioner voted aye

Motion carried with a 3-0 vote.

4. Discussion/Action: Request to vacate the Public Alley located within Block 4 of the Smith Terrace Subdivision.

Assistant City Manager Alvarez: This is essentially correcting kind of an old property issue. The request for an alley vacation is an alley that runs through an existing developed property. It looks like it was actually intended for a vacation in 2004, but the process was never finalized. We did take this in front of the Planning & Zoning Commission, they recommended approval. The alley goes right through the assisted facility up there on Silver Street, and we do have Sierra County Title representative Josh Ashbaugh present today to answer any questions regarding this item.

City Attorney Rubin: I think as we looked at it, we saw that there was not really the necessity of an easement, I think we've addressed that issue as far as that is concerned. Mr. Ashbaugh, I actually had a question, I was looking at this item this morning. I assume what would happen is the City Commission would vote to approve the vacation, and they'll probably want me to draw the vacation itself. Looking at the documents contained in your packet, which legal description do you think would be most appropriate here? I saw that there are actually a couple of deeds here that had different descriptions.

Joshua Ashbaugh, Sierra County Title Company: I think you can just do a bounds description I think, so it would be the alley within block 4 bounded on the East by lots 1-6, boundary on the West by lots 7-12 bounded on the North by Barton, bounded on the South by Paschal, as shown on the plat of the subdivision.

City Attorney Rubin: Yeah, I saw there was a 1999 quit claim deed which actually even went to a bounded description, not sure if that's even necessary or whether we need to include it.

Joshua Ashbaugh, Sierra County Title Company: I don't think it's necessary. It's bounded, the subdivision exists, we have all the bearings and distances on the lot lines

and on the streets. Frankly, I think it would be sufficient to just say the alley within block 4.

City Attorney Rubin: Right, which is what I did.

Joshua Ashbaugh, Sierra County Title Company: Yeah, it can be valid, it's fine.

City Attorney Rubin: I'm making an assumption, but if the Commission votes to improve this, and I draw up the vacation, I will go through with you.

Joshua Ashbaugh, Sierra County Title Company: Yes. And then just real quick, Mr. Rubin brought it up. Normally when the city vacates a street or an alley, they reserve under themselves easements and reversionary language to reclaim the property. Under the circumstances, we'd prefer that not occur because there's a building on top of it. We double checked with the Utility Departments, we believe there are no city-owned main water lines or sewer lines that run through that alley, my guess would be they're in Silver Street. For the power line that runs across the property, there is an express easement for that to the city. Under the circumstances, there's no real point to reserve anything in the alley itself, which, again, is under a building.

Mayor Hechler: Thank you. I guess I will defer to our City Manager, if he would recommend that, if there are no utility easements required.

City Manager Whitehead: I would really have to defer to Planning & Zoning and Traci, they worked through this. I think the staff has worked on this, and we have no concern at this point of the easement access. As Mr. Ashbaugh has explained, there's a building sitting on the property. If I remember correctly, I think we did a vacation for this sometime back, 20 years ago it was brought before the Commission. It just was never completed or finalized, so really we're just closing the loop on an issue that just didn't have that done at the time.

Assistant City Manager Alvarez: As part of my vacation requested, you get utility clearance so our water, wastewater, and electric has all gone out there and verified that there are no issues or concerns, and they've replied via email.

Commissioner Glines made a motion to approve the Request to vacate the Public Alley located within Block 4 of the Smith Terrace Subdivision as presented, and authorize staff to complete any ordinance or recording steps required. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Summary Plat Amendment at 310-316 E. Third Street.

Mayor Pro-Tem Mitchell made a motion to table item F5. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

6. Discussion/Action: Memorandum of Understanding between the City of Truth or Consequences and Sierra County to develop a Riverwalk Trail along the Rio Grande at Ralph Edwards Park.

Item was moved up on the agenda.

7. Discussion/Action: Change Order Increase:

a. Streets- Texan Waste Equipment- \$239,414.00-HGAC BUY-Per DFA Advisement of Loan Purchase.

City Manager Whitehead: Back in April we came before you to have authorization to purchase a new street sweeper. We anticipated that sweeper showing up in May, but unfortunately we missed the one they had in stock so they had to bring another one in and we are still waiting for it to show up. The original intent of the program that we put together was that we procured a loan for \$200,000 from the New Mexico Finance Authority and then we were going to pay \$39,000 from our streets department. So, we're effectively putting \$40,000 down. Our loan advisor at the time that we finished the loan had indicated that we should pay for our portion and then the vendor would receive their money from the lending company. We would send in documents and then they would receive that. In working with our new Police Department loan, our new loan officer has indicated that their preference now would be that we pay for the street sweeper and then we apply and get our \$200,000 back. So what you are looking for is just a change order to allow us to add the \$200,000 instead of the \$39,000 and add the \$200,000 so it makes our purchase order the full amount of \$239,414.00. We will procure the street sweeper and then the loan is already sitting ready for us. As a matter of fact, it's kind of an interesting situation. Our loan is about 0.5% interest on it, but we're earning 4% on the money sitting in the account. So we now have about \$2,000 that we've earned since May, since the loan has been available. So. Our actual output won't even be the \$39,000. We'll have that extra credit in money we've earned. So, we're earning more money than we are paying if you can imagine that.

Mayor Hechler: How long can we wait for a street sweeper?

City Manager Whitehead: We're going to wait long enough to get the whole down payment, but again that the only change. The procurement is the same and the contract

is the same. We're not asking for anything different. We're just asking for a different process to pay for it.

Mayor Hechler: We have the cash on hand?

City Manager Whitehead: We have enough cash in the streets department to cover it. We have around \$1.6 million in the streets department. We'll be out the \$200,000 for less than a week because it's already sitting there. We just have to request the funds and it will come right back.

Commissioner Glines made a motion to approve the change order increase for the Streets- Texan Waste Equipment HGAC in the amount of \$200,000.00. Mayor Pro-Tem Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

b. WISPI 2- from \$33,492.98 to \$459,996.25 for Construction Services.

City Manager Whitehead: I'm really excited to bring this to you. At the last meeting we let you know that the WISPI 2 USDA loan was released from USDA for us to go to bid. We have two projects, WISPI 2 and Critical Water. We've been holding up Critical Water to get WISPI 2. We need WISPI 2 to happen and then Critical Water. Both of those are in Metal Street area. So, we're really excited we can go to bid. As you remember, through the USDA projects, the city receives what I'm going to call an interim or bridge style amount of a loan that you procured through a local branch. It is a small amount which would allow you to get started with the planning and then once the project is done and it's ready to go to bid. Now we need to expand the amount of the contract. Back in 2023 or 2024, the city granted a contract to Wilson & Company on this water project for \$1.4 million for design and construction management. However, you only had enough money to give the procurement and the purchase order for \$1,650,000 which covered the design. So, now we have the permission to go to bid, we need to now do a change order which would give Wilson the full contract amount and allow them to prepare for bid and then manage the project which is what they are doing on the other items. The recommendation today is that you approve the change order increase in the amount of \$459,996.25. That will bring the contract in line at \$1.4 million plus applicable gross receipts tax.

Commissioner Glines made a motion to approve the change order increase for the WISPI 2- for Construction Services in the amount of \$459,996.25. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

8. Discussion/Action: Re-appointment of Chris Sisney to serve a 2-year term on the Planning & Zoning Commission.

Mayor Hechler: The next four items have to do with our Planning & Zoning Commission. A quick note, we are so lucky to have people that want to re-apply to these boards, and I really appreciate that they are pretty thorough in their questioning. They hear concerns of our citizens and they do a nice job for us, and I appreciate them wanting to continue to serve. I do have one question. Why are they all coming up at the same time?

City Clerk Torres: When some of the members resigned, it through everything off. So, I think if we get a new person, we can maybe start their term for a year so we can get them staggered again, but I will look into how I can address that now.

Mayor Hechler: I hope these folks are with us for a while because I would hate to lose them all at the same time if they all decide to give up on us.

City Clerk Torres: Chris Sisney is a current member on our Planning & Zoning Board. His term expired in July, and he submitted an application to serve another term on the board. At their last meeting, the board unanimously voted to recommend the re-appointment of Chris Sisney to serve another 2 year term on the board.

Commissioner Glines: I just wanted to make a quick note, if I don't know who Chris Sisney is, and I have no idea who he is, I'm appointing him based on him stating on his application that he is a current member and he wishes to renew his term. I read the minutes, and I do know who he is, and I see that he is doing good work, but I just don't think that is enough information for me to vote on something going forward. So, I don't know if we need to change the qualifications list to be more encompassing because I see that current member quote repeatedly on these applications. I'm glad to have people even signing up for the boards. I wish all of our boards were full. I'm not trying to make it difficult.

Mayor Hechler: There has to be an original application, so perhaps we can attach that to the renewal application to make an informed decision. If its easy to find then perhaps we can do that in the future. I think that would solve some of our problems because I feel it could be problematic if we didn't know who the board was.

City Attorney Rubin: I remember way back when they used to require the applicant to attend the Commission meetings in case the governing body had any questions.

Mayor Pro-Tem Mitchell made a motion to re-appoint Chris Sisney to serve another 2-year term on the Planning & Zoning Commission. Commissioner Hoeppe seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

9. Discussion/Action: Re-appointment of Esther Luchini to serve a 2-year term on the Planning & Zoning Commission.

City Clerk Torres: Esther Luchini, Susan Buhler and Molly Hammer are also current members of the Planning & Zoning Board. They also re-applied to serve on the board and the board recommended appointment of all three members to serve another 2 year term on the board.

Commissioner Hoeppepner made a motion to re-appoint Esther Luchini to serve another 2-year term on the Planning & Zoning Commission. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

10. Discussion/Action: Re-appointment of Susan Buhler to serve a 2-year term on the Planning & Zoning Commission.

Commissioner Glines made a motion to re-appoint Susan Buhler to serve another 2-year term on the Planning & Zoning Commission. Commissioner Hoeppepner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

11. Discussion/Action: Re-appointment of Molly Hammer to serve a 2-year term on the Planning & Zoning Commission.

Commissioner Hoeppepner made a motion to re-appoint Molly Hammer to serve another 2-year term on the Planning & Zoning Commission. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

12. Discussion/Action: Approval of Purchase Requisitions over \$60,000
a. Bohannon Huston- \$75,000- On Call Engineering Services-NMFA Grant Planning

City Manager Whitehead: Traci and I will partner up on presenting this item. In your packet, you'll see our application for a planning grant from the New Mexico Finance Authority. They now have planning grants and they have to be specific for a particular project. Our affluent water system has not been reviewed in some time, Assistant City Manager Alvarez brought that to my attention and suggested that we apply for some funding from the Finance Authority and go ahead and do a preliminary study. As you know, we do have an affluent water process system. We fill a pond at the ball fields, we

water some of the fields with it, and then we move the water to the golf course and we water there. This preliminary engineering report would allow us to assess the current system, it's over 20 years old, and determine what areas that we need to be focused on for potential repairs. As you know, last month we had some citizen concern about us watering the golf course in the day, well part of the reason we have to water it during the day is because the pump system that would keep it charged is not functioning, so that would be something that would come through this study to tell us what we need to do to repair that, so that potentially we could get the electronic system fully back online and water in the evenings, which we know is more efficient. So that's the plan for the PER. In this particular case, we've decided to use our on-call contract, which is an active contract. We have selected Bohannon Huston, we have kind of focused with Bohannon Huston on our wastewater collection system, they're doing the planning and design for the wastewater plant right now, we're going to allow them to do the Clancy lift station line extension, and then this. Again, trying to separate what our engineers do. Wilson kind of handline the water side of the house, Bohannon doing the wastewater, and then we're looking for the right engineering firm to do our streets and other items. The proposal from Bohannon Houston would be for \$98,900 plus gross receipts tax. Unfortunately, in the procurement that you're seeing today, our CPO only applied for the grant portion, \$75,000, so we would ask that in your motion you amend the procurement to be for \$98,900. If you look at the information from the procurement officer, he had a little typo in the beginning and kept the A4 storm street sweeper on as the header. That really needs to say "affluent water PER", the amount would be for \$98,900, and we are not using the HGAC bid program, we are using our city's cooperative agreement. Everything is in order, the requisition is in order, and we would stand for questions and request approval of the procurement.

Mayor Hechler: \$75,0000 is the grant and the remainder is the match?

City Manager Whitehead: That is correct, and that will come out of our wastewater funding. We have enough capital, enough cash there to do the match.

Commissioner Glines: The total purchase requisition amount being \$98,900?

City Manager Whitehead: Correct, base cost of \$98,900. The total procurement would be \$107,182.88 for the engineering report.

Mayor Hechler: Thank you for those changes.

Commissioner Glines: My last question was what's the official total amount? Am I making the motion for \$98,000?

City Manager Whitehead: I would ask that the motion be for the \$98,900 plus applicable gross receipts tax, that way we're not tied to the amount, but the contract from Bohannon Houston is exactly that amount.

Commissioner Glines made a motion to approve the Purchase Requisition over \$60,000 in the amount of \$98,900 plus applicable GRT for the Bohannon Huston-On Call Engineering Services-NMFA Grant Planning. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

G. ORDINANCES/RESOLUTIONS/ZONING:

- 1. Discussion/Action: Resolution No. 15 26/27 Authorizing NMFA Colonias Infrastructure Project Fund Loan/Grant Agreement CIF-7113 for Marie Street Improvements.**

Assistant City Manager Alvarez: This is just the formal financing approval for the Marie Street project through the Colonias fund that the city was awarded. We received a 90% grant and 10% loan, right around \$1.3 million, and we'll have a cash match of \$136,000. That will give us a total project amount of \$1.5 Million. Approval of this resolution and the grant agreement loan documents will allow us to execute those and then proceed with NMFA for the closing.

Mayor Pro-Tem Mitchell made a motion to approve Resolution No. 15 26/27 Authorizing execution and delivery of the NMFA Colonias Infrastructure Project Fund Loan/Grant Agreement CIF-7113 for Marie Street Improvements in the amount of \$1,363,637. Commissioner Hoepfner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

- 2. Discussion/Action: Resolution No. 16 26/27 Authorizing City Staff to Submit an Application to Water Trust Board for Design Services for a Water System Improvements Project.**

Assistant City Manager Alvarez: This was brought to you previously under the notice of intent, and we updated you that we would be applying for some funding that became available through the Water Trust Board for design purposes only. This is just part of that application process, we have to submit a resolution where the Commission authorizes us to apply. We're going to be applying for approximately \$2.3 million for design only. I sat in on their training for the application process since design funds are kind of a new process this year. You'll be happy to find out that they are giving 100% grant, there is no loan, and there is no cash match associated on the design portion. If we submit our application and we are awarded the \$2.3 million in design, we will be designing the Well #2 improvements, a possible new well at the north end of town, approximately 31,000 linear feet of water line, which will provide us with approximately a \$25 million shovel-ready water project. With that, I stand for any questions.

Mayor Pro-Tem Mitchell: One question on the shovel-ready project; is that money that we already have available to throw at that, or is it money we're going to have to get?

Assistant City Manager Alvarez: We'll be applying, so our hope with this is if we are awarded the entire amount, we have had some discussions with our engineer, and the Water Trust Board is going to be opening their regular cycle here fairly soon, it sounds like we'd have to have some design completed by April. Obviously, he can't design \$2.3 million. However, he does feel like he could potentially at least get the well portion designed. So we might go through this cycle right away and ask for around \$4 or \$5 million to do the wells while he completes the design on the remaining amount, and then we could apply for funding at Colonias, Water Trust Board, HUD, USDA, or our legislators, because we'll have shovel-ready so it'll open us up, and then depending on the funding source we go through if there is a loan and a cash match required, we do have our FY24 HUD funds that can be used to cover the loan and cash match. The hope is to have 100% funded project with no out-of-pocket loan.

Mayor Hechler: You won't see this availability very often, I think we're in a window of opportunity here with the state that we can make these applications. I'm glad that we're moving forward with that and being aggressive in getting that done. Remember, we have \$120 million worth of work to be done in this community. This is the next step, you know, we've got the first three or four projects scheduled. This is the next one that we probably won't see in the ground for two or three years, but we have the applications now.

Assistant City Manager Alvarez: And if I could add, just to go backwards on a previous item you guys approved, we're eligible to apply for these design funds because the Commission approved us on an application in the past to do an entire water municipal PER. Because we have that planning document, that makes us eligible for design funds. Had we not had that planning document, we couldn't apply for this. So by approving us to go through with the affluent water PER, that's going to put us in a position to be able to start applying for some funds that are there for affluent water use. I know sometimes, whether it be the Commission or the public, the frustration is that we pay all this money out for planning documents, but this is a good example of why.

Mayor Hechler: Thank you.

Mayor Pro-Tem Mitchell made a motion to approve Resolution No. 16 26/27 Authorizing City Staff to Submit an Application to Water Trust Board for Design Services for a Water System Improvements Project in the amount of \$2.368 million. Commissioner Hoeppner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Resolution No. 17 26/27 Adopting guidelines for the City of Truth or Consequences Lodgers Tax Grant Program.

City Manager Whitehead: As you know, Angela has been managing the lodgers tax program since I came on board, and we've kind of worked through some, not necessary issues, but understanding and getting our education up. One of the things I wanted to develop was a really good understanding of lodgers tax so we could come from a set of principals. For a long time the resolutions indicated that 60% of your money had to go toward this, and 40% had to go toward that, and mathematically it kind of worked out, but its really not what the statute and the law requires. It requires that you use the formula to break down what your revenue is and you have to set a certain amount aside just for promotional purposes and otherwise, everything else can be used for all the other requirements of lodgers tax. If you wanted to use it all for promotional purposes you could, but to be compliant with the law, and to go through a proper audit, you just have to follow the formula. So, what we did was we took the time to develop this book that you see which breaks down each regulation from the state regulation book, and I mirrored it to what our current ordinance says so that anybody looking at the book can see this is what the state requires, and this is what our ordinance requires. So, you can see the law and apply the law. The second piece in the handbook was to come up with an operating manual that Angela or whoever chooses in the future to run the lodgers tax could understand how they apply those principles of law and regulation. The third piece of the book would talk about how the board markets and what their marketing plan was. We had a little issue when I came on board about the lodgers tax logo being the official city logo. So we kind of cleaned that up to say lodgers tax can adopt a logo, and in this particular case, that's the logo they want to adopt, and its not relevant to say that it's the official city's logo for lodgers tax. So what we have before you is what we would be calling an encompassing operating manual for lodgers tax. In this particular case it clearly sets out the guidelines that the Clerk would be operating under if she is going to continue to manage that. The guidelines sets forth a new resolution, so with that, we do have a change that we want to make in the resolution. We will bring that up in a second, but I will certainly let City Clerk Torres have the stand for any questions or presentation she may have over the handbook.

City Clerk Torres: The only additional item I would like to add is a recommendation from a Lodgers Tax Board member. When an applicant receives lodgers tax funding to pay for a band, the band will be responsible for conducting its own marketing. This requirement was also added to the guidelines.

Mayor Pro-Tem Mitchell: The only issue I have with that is on Fiesta, we would like to have a branded type of promotion of the bands, so they have our Fiesta logo and so on. So, we would take it on to have our own promotion, but I like having the fact that they have to do their own.

City Clerk Torres: That's fine. Another thing I wanted to add regarding the logo aspect is that the recipients can either use the lodgers tax logo or the advertisement has to say "paid for in part by the City of Truth or Consequences Lodgers Tax". Either, Or.

City Manager Whitehead: I just want to support the Clerk with this. I serve on the Workforce and one of the audit findings that we had 10 years ago from the Department of Labor was that we were not putting funded in part by the Department of Labor on our workforce items and it caused an audit finding. So, in my mind I felt like there would be some statute for the lodgers tax funds. I did look because the board requested that I do so. We found that it doesn't necessarily require it, so we came to the accommodation that one or the other would be acceptable. Then part 2 with the bands, that's a little different in application than you guys have done before where entertainment can be part of the funding right? Because it does say that you can use the money for an event. So, I expand that in my thinking to say that the bands can be included. But what the board came up with in their conversation I thought was really good, for example, the Levitt group can only bring bands in under that grant that have an online presence and can present what their online presence is. And I thought that, you know, that's the right thing, so its not that they necessarily market, but you want a band that can at least say, I'm playing in T or C, and they've got 2000 followers. If that's who they are, then the would be eligible then to be paid for. But if someone puts a band together, and they say, hey we want to go play, and we applied, we wouldn't qualify because you wouldn't want to just be putting it into the entertainment. So, they have to be able to market themselves, right? And so we think that's important. Our Clerk and staff did a really good job getting the boards input. This has been in the works for about 3 months going back and forth for recommendations.

City Manger Whitehead: Under the current resolution, the Commission can authorize, because Lodgers' Tax funds can be used for art purposes and it can be used for administration, and we want those two items to remain financially the same. The resolution says, "Of the available funds, 1% shall be eligible for administration." And that needs to be 10%. And then, "1% shall be allocated to the arts." That is correct. And then, "1% shall be used for the Civic Center." That needs to be removed. Technically, we can use 10% of the Lodgers' Tax, which can be for the Civic Center or the Lodgers' Tax for admin, and then we would only allocate 1% to the arts.

Mayor Pro-Tem Mitchell made a motion to approve Resolution No. 17 26/27 Adopting guidelines for the City of Truth or Consequences Lodgers Tax Grant Program with the amendment noted by City Manager Whitehead. Commissioner Glines seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: Resolution No. 18 26/27 Declaring a Local Disaster Emergency related to the Elephant Butte Reservoir.

This item was moved up on the agenda.

H. EXECUTIVE SESSION:

- 1. Purchase, Acquisition, or Disposal of Real Property (Cantrell Dam Easement Acquisition) pursuant to 10-15-1(H.8).**

Mayor Pro-Tem Mitchell made a motion to go into executive session at 11:40 a.m. to discuss Purchase, Acquisition, or Disposal of Real Property (Cantrell Dam Easement Acquisition) pursuant to 10-15-1(H.8). Commissioner Hoeppepner seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Hechler reconvened the meeting in open session at 11:57 a.m.

Mayor Pro-Tem Mitchell certified that only matters pertaining to Purchase, Acquisition, or Disposal of Real Property (Cantrell Dam Easement Acquisition) pursuant to 10-15-1(H.8) were discussed in Executive Session and no action was taken in executive session.

I. RETURN TO REGULAR SESSION; ACTION (if any)

- 1. Purchase, Acquisition, or Disposal of Real Property (Cantrell Dam Easement Acquisition) pursuant to 10-15-1(H.8).**

Mayor Pro-Tem Mitchell made a motion to authorize the City Manager and City Attorney to negotiate the purchase of the easement acquisitions for access to Cantrell Dam. Commissioner Hoeppepner seconded the motion. Roll call vote was taken. Motion carried unanimously.

I. ADJOURNMENT:

Mayor Hechler adjourned the meeting at 11:59 a.m.

Passed and Approved this 9th day of September, 2026.



Rolf Hechler, Mayor



Angela A. Torres, CMC, City Clerk