

CITY COMMISSION MEETING MINUTES
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
CITY COMMISSION CHAMBERS, 405 W. 3RD St.
WEDNESDAY, JANUARY 8, 2025

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. Amanda Forrister, Mayor Pro-Tem was absent
Hon. Destiny Mitchell, Commissioner
Hon. Merry Jo Fahl, Commissioner
Hon. Ingo Hoepfner, Commissioner

Also Present: Angie Gonzales, City Manager
Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Angela A. Torres, City Clerk-Treasurer
Jocelyn Holguin, Finance Director
Tyler Knull, Code Enforcement Officer

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

2. SILENT MEDITATION:

Mayor Hechler called for fifteen seconds of silent meditation. Friends and family in California in our thoughts and prayers. They are currently dealing with 3 active fires in their state.

3. PLEDGE OF ALLEGIANCE:

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

4. APPROVAL OF AGENDA:

Commissioner Fahl moved to approve the agenda with the changes of E2 moved before item E1 and to move D1 to the end of the agenda during item K. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

C. EXECUTIVE SESSION:

1. Threatened & Pending Litigation (Hot Springs Land Development) pursuant to 10-15-1(H.7).

Commissioner Fahl made a motion to go into executive session at 9:04 a.m. to discuss Threatened & Pending Litigation (Hot Springs Land Development) pursuant to 10-15-1(H.7). Commissioner Mitchell seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

Mayor Hechler reconvened the meeting in open session at 9:22 a.m.

Commissioner Fahl certified that only matters pertaining to Threatened & Pending Litigation (Hot Springs Land Development) pursuant to 10-15-1(H.7) were discussed in Executive Session and no action was taken in executive session.

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

1. Threatened & Pending Litigation (Hot Springs Land Development) pursuant to 10-15-1(H.7).

This item was moved to the end of the meeting.

E. PRESENTATIONS:

Item E2 was moved before item E1 on the agenda.

2. Abatement Presentation.

Brad Hill Community Development Director presented a PowerPoint presentation regarding abatements. (Complete copy attached hereto and made a part hereof).

1. Presentation of City of Truth or Consequences Employee Service Anniversary Awards:

City Manager Gonzales presented an Employee Service Anniversary Award to Kerin Salcedo for 17 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Tara Manning for 5 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Henry Flores for 5 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Alan Hansen Begg for 1 year of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Mathew Hill for 3 years of service with the City of Truth or Consequences.

City Manager Gonzales presented an Employee Service Anniversary Award to Joshua Brewer for 3 years of service with the City of Truth or Consequences.

F. PUBLIC COMMENT (3 Minute Rule Applies):

Andy Underwood addressed the Commission with comments related to:

- He updated the Commission on the Carol Plec statute. The statute stands around 8ft tall and it will be placed at the Healing Waters Plaza in one of the planters. They have a few more steps with it.

Susan Todd addressed the Commission with comments related to:

- She said that the Sing Along event was very successful. She thanked all those involved who helped with the event and she has already booked the Plaza for this year's event.

G. REPORTS:

City Manager Gonzales reported the following:

- We have warming centers located at the Civic Center from 7am to 2pm, Monday through Friday, except on the days that the venue is rented, and at the public library 9am to 5pm Monday through Friday and 9am to 12pm on Saturday's. Today may be a little wonky because we are going to close the city offices down at noon.

- We are really just getting back into business now after the long holiday with people taking time off, and people getting back and ready to go.
- Since Arnie has moved on, Traci and I are staying in touch with the Water/Wastewater department. The water guys are out fixing waterlines right now in the weather. We are in compliance, and we would never let this community come into that kind of situation. Arnie's position is open, and we are taking applications.

City Commission Reports:

Commissioner Fahl reported the following:

- Yesterday, the Sierra County Recreation and Tourism Board had their quarterly meeting. They have a pretty robust agenda with lots of different topics. They talked a lot about some great improvements that will be occurring at the Spaceport. The tax authority group has agreed to fund the installation of some infrastructures, so they can get some more electric lines out there that the state had refused to fund.
- The Forest Service is back to creating more improvements on trails and for the tourism aspect, that is a tremendous benefit for us.
- The scenic byway group is going to be creating some new brochures.
- City Clerk Torres, can you and I work together on trying to set up some sort of community meeting so we can start planning our big 75th anniversary event.

Commissioner Mitchell reported the following:

- The T or C Fiesta is doing a special flashback to Fiesta event this Saturday at the Geronimo Springs Museum from 4pm to 7pm. They are going to bring out a bunch of old photographs and memorabilia from previous Fiesta's. I have a couple of students that are going to be taking videos of people that want to come and share their Fiesta memories. We are just trying to capture the past 75 years of this celebration of our name change from Hot Springs to Truth or Consequences. We are inviting people to come out. There will be light snacks, raffle tickets and story swapping. If anybody wants to come down and meet the Fiesta Board and the volunteers and share your experiences, we would love to have you.
- We are starting the launch of the Geronimo Springs Alternative pathway program. It is a youth and adult education pathway for getting a high school diploma equivalency or GED. They are taking enrolments now up until Friday, and then classes will start next week. There has already been a huge response online for it. It should also be coming out in the paper today or tomorrow. This is a great opportunity for adults because there is not an equivalent or GED program in the community right now. This is a chance for anyone who needs to get that degree or get assistance with getting anything from a driver's license to locating your social security card. They can come on down and talk to the counselors and the teachers at the program. You can contact them through me until we get the whole program put into place. I am excited that we had such a huge response. I think there are 15 students in the youth program and 6 students in the adult

program. This program is partnered with Workforce Connections, so there is built in incentives and work study opportunities so we can get more people into the workforce here which is a huge need in our community.

Commissioner Hoeppner reported the following:

- Happy New Year to everyone.
- I want to thank everyone who shopped locally this season. The last few weeks of December were very successful for the small businesses in our community. Together we can make a difference.
- 2025 is going to be a big year for everybody. I am looking forward to seeing you all move forward to a brighter future.
- Thank you to the Police Chief. We had a power outage a couple of nights ago, and the police force was out there in the downtown area within minutes checking on stores and making sure everything was safe. I was very impressed by the quick response.

Mayor Hechler reported the following:

- As I was involved with a past commission and looking at some of the things that we've gone through in the past, our commissions, apart from this one, have been reactive in the past, and I think we have been very proactive. We are going to have a comprehensive plan for our community in place. We've okayed \$50,000 to be spent on that. That is going to help us plan what our needs are for this community coming up. We've been very active in waterline replacement and getting the funds for that. In fact, we have over 80,000 linear ft. or 15 miles of waterline scheduled to be put into the ground over the next 3 years. That's \$15 million. We've been very fortunate to receive the funds. Our management and our staff have done a wonderful job of getting that planned out. We are in the process of getting an EDA grant which is a federal grant for an end to end community development plan. Much like the comprehensive plan, but much more detailed. That plan will end up costing around \$400,000 to \$500,000 but it is fully funded under a grant and it also comes from a staff person to implement the plan, and I am really looking forward to that. We have our electric study that is around a half million-dollar plan. Assistant City Manager Alvarez and I were talking, and she came up with the idea that we should have an end-to-end community wastewater plant. That would be the last thing that we would need to have done. The appropriate fund for that would be the bond money that we received from our community. That would be an appropriate way to spend that money to get that planned out. What will this do for us? All of these plans will open the door for us to receive funding from the state because our plans are done. Once our plans are done, then we go out for funds for design and construction. That is the first step and having those plans in front of us and having hard copies to present to our legislators and to the governor's office or anywhere that we need to go with those things. Having those plans in place and ready to go goes a long way to get to that first step so we can get our funding. I am really looking forward to that opportunity. It's really important that we do those things, and it should set the table for us for the next 15 or 20 years. We are still

relying on a 2014 Master Plan. It is time to get these things updated across the board, and I think a lot of that is going to get done this year.

City Attorney Rubin had no reports.

H. CONSENT CALENDAR:

1. City Commission Regular Minutes, December 18, 2024

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

I. ORDINANCES/RESOLUTIONS/ZONING:

1. Discussion/Action: Resolution No. 25 24/25 Budget Adjustment Request.

Jocelyn Holguin, Finance Director reviewed the budget adjustments submitted in the packet.

Commissioner Mitchell moved to approve Resolution No. 25 24/25 Budget Adjustment Request. Commissioner Hoeppner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

J. NEW BUSINESS:

1. Discussion/Action: Trash Can Design proposals.

Becca Eza, MainStreet T or C Director: As part of our clean and beautiful grant that MainStreet has received, one portion of it is trashcan painting. In 2023 MainStreet did their first round of painting 6 downtown trashcans. We asked for volunteers from the community to paint them. Unfortunately, this grant is not able to pay the artists for their art. Part of "adopting a trashcan" is that the artist agrees to paint it and then maintain it. We are going to put sealant over it to try and protect it from the elements here. We put out a call last fall for proposals. We had more than twice as many as we thought. Initially we were going to purchase new trashcans, and we still will with this grant money, but the particular model trashcan, the 4-sided metal ones that are great to paint on are discontinued so we are looking for a new style of trashcans. We will work with the city on where those will go to make it easy for the Sanitation Department to empty. In the meantime, for this trashcan painting, we would like to use the 8 unpainted ones. Some are not in really good shape so it will help to make them look good by painting them. There are 3 on Broadway, 3 on Main Street and 2 in front of the Healing Waters Plaza.

We had proposals come in and we put together a selection committee with representatives from MainStreet, the Arts Council, downtown business owners and the city to select the artists that we would like to invite to adopt a trashcan. This is not a judgement of the best artwork. The selection committee tried to choose a variety of themes and styles of artwork and have the community well represented to artists. I am here today to present to you the 8 artists' drawings. We asked the artists to create a proposal of what they will be painting on the trashcan and then we would like to have your approval for that if you think these are appropriate themes and styles of art to put on these trashcans. They will be painting them over the course of the next couple of weeks. On January 25th there will be a big litter pickup downtown at the Healing Waters Plaza starting at 9:00 a.m. and we will invite the trashcan artists and introduce them. Some of you may remember in the last round of trashcan art, one of them had something painted on it that ended up having a couple of complaints from the community about. It was more of a misunderstanding of what the theme was intended to be, so we just want to avoid that this year and have you guys review the designs and make sure that you don't see anything that could be considered controversial or anything that would cause complaints, so we don't have to ask the artists to change it.

Commissioner Fahl made a motion to approve the trash can design proposals. Commissioner Hoeppner seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

2. Discussion/Action: Multi Animal Special Use Permit 1501 N. Ash.

Assistant City Manager Alvarez: This came to the Commission after the recommendation to deny the permit came back from the Planning & Zoning Board back in August. At that time the Commission made a decision to deny the request for the Multi-Animal Special Use Permit. The meeting minutes are attached to your agenda packet. You wanted us to bring this back to you in 90 days. Currently, I have had no contact with the applicant. She has made no attempt to contact Planning & Zoning to do any of the improvements that she spoke about. We did notify her to let her know that this would be going back in front of the Commission. You have a copy of the email that she sent saying that she was unable to attend this meeting. At this time, I am going to turn it over to Code Enforcement. I know that he has gone out and done an inspection and made attempt to contact the applicant as well.

Tyler Knull, Code Enforcement Officer: I have attempted to reach out to the applicant regarding this Multi-Animal permit. I did receive an email back and she said that she was unable to attend this meeting. She has not made any attempt to reach out to us and nothing has been done on the property, and I haven't seen any improvements on the property. I have gone ahead and filed charges on this for a violation of our city ordinance.

City Attorney Rubin: So, you filed this through the Magistrate Court? What charges did you charge her with?

Tyler Knull, Code Enforcement Officer: I charged her with a violation of section 3-8-1.

Mayor Hechler: So, at this point and time we can't really take any action until the judge rules on what he is going to do. Is that correct?

Tyler Knull, Code Enforcement Officer: What we are looking for from you is a recommendation from the governing body. The judge will issue a decision, and ultimately if they decide to press charges it will go to trial and that will require testimony from the governing body, and that is why we are here today.

City Attorney Rubin: I think you tell the court that you already considered this back in August 2024. The Commission denied the multi-use permit at that time. You have now brought it back here in January 2025, so I think the Commission would say that there has been no change in the facts, therefore we confirm our decision to deny the permit, and then Mr. Knull you will have that when you go to court.

Commissioner Fahl: I think we also need to reiterate that we tried to work with this individual, and with no response at all, how do we try and resolve the situation without having to go those extra steps. And that's unfortunate that they didn't respond.

Commissioner Fahl made a motion to deny the Multi Animal Special Use Permit 1501 N. Ash. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

3. Discussion/Action: Increase Commission Approval Threshold.

Jocelyn Holguin, Finance Director: In my time that I've been here and reviewed our process, I feel, based on my experience, our staff's capacity to increase the threshold because I feel like the \$20,000 threshold that we are currently approving are a time constraint in the Finance Department when we could be working on other projects, we are busy putting packets together. The state allows up to \$60,000 so I would like to increase the threshold to follow the state statute. I mentioned the \$50,000 because if it is federal funds then you have to follow the \$50,000 threshold when it comes to approvals. If we can do this, it would be less hindrance on the staff as well because we are delaying processing when we could just do this internally and make this work, instead of holding up time. Helping us be more productive is basically m goal.

Commissioner Mitchell: Why was the limit of \$20,000 approved previously?

City Attorney Rubin: We adopted a resolution which set forth the \$20,000 limit. Before that we didn't have anything in place, so the \$20,000 limit was our first try to see how this works with the intention that we could always re-visit it if we wanted to raise or lower

the amount. If you wish to proceed with the higher threshold, we probably want to bring the resolution back to you at the next meeting.

Commissioner Fahl: I am going to vote no to do this because our main job is fiscal responsibility, and I want to know what is going through. I know that things cost more nowadays, and \$20,000 doesn't sound like a lot, but I would like to be more fiscally aware of when we are making big purchases. I think that \$20,000 is fine, so we know what we are agreeing to spend money on. It is not a matter of the lack of faith or anything like that, it is just having more fiscal awareness.

Mayor Hechler: I agree with you to some degree that we have to be fiscally responsible as a Commission. I think that is important, but there may be a way that we can still address this without having to go through all of the protocols that you are going through now. Items that are between \$20,000 and \$50,000 can be addressed and put on a consent calendar. We wouldn't have to go through the processes that you go through now to address everything, but I think we want to be informed of what the city is spending its money on. If we had a line on the consent calendar that identified that we spent "X" amount of money, then when we go through the process of approving the consent calendar, and if we have a question about the item, then we could address that question to you and you guys could respond. That way we could still stay fiscally responsible as a Commission and we will know what's going on, because we do want to know where your money is being spent and \$20,000 doesn't sound like a lot of money to some folks, but it is a lot of money for us.

Jocelyn Holguin, Finance Director: That doesn't change anything for us because we are still going to have to do all of the packets.

Mayor Hechler: It would be a line on the consent calendar that would show enough detail so we know what it is, so if we have a question about it we could ask you. Otherwise, it would just go through a normal consent calendar process. I think that would save a lot of time, but we would still be apprised of what the city is spending its money on. I haven't thought out the process all the way through, but that would be one way we could stay informed.

Jocelyn Holguin, Finance Director: Would that still fall under pre-approvals? It would be a delay in processing as well.

Mayor Hechler: That's true. It would involve an approval during one of our meetings. The consent calendar is only approved during one of our two week meetings, so we'll have to discuss that. That's part of the problem. They aren't able to process these \$20,000 items because they have to wait two weeks, so if the item comes up right after a Commission meeting, it's 2 weeks before they have approval to go ahead and process. That is one of the issues.

Assistant City Manager Alvarez: Is it something where we could go through the process but, add on the consent calendar any purchases that we've made between that \$60,000

and you guys just get a report of those and anything over \$60,000 would come to you for approval.

Mayor Hechler: I don't recall ever disapproving anything that was \$20,000. I don't think we ever said no, but I think we wanted to be informed. I don't think we want to hold up the whole system, but we do want to know what the money is being spent on.

Assistant City Manager Alvarez: I think what we've come across is most of the large purchases are already budgeted and you guys see that during budget time or it's grants and projects that are coming through. Another thing would be unexpected emergency purchases like we've had with waterlines or parts that we need to order, but then we are on a delay because we have to wait for Commission approval for them to buy the lines or the parts that they need. We will still bring it to the Commission in a report showing that we've made that purchase and anything \$60,000 and up would come to you prior to the purchase.

Jocelyn Holguin, Finance Director: They would still have to follow the thresholds and follow the procurement process.

Commissioner Hoepfner: In the situation we are in right now and with future changes, I would like to hold off on that decision because I don't want to implement new things before somebody new comes in. When it comes to an emergency, we can implement something stating, in an emergency the City Manager can sign off with the knowledge that it is an emergency situation.

Jocelyn Holguin, Finance Director: Per state statute, the state emergency declaration is different from this process and that helps with our recovery funding.

Commissioner Fahl: So, you're saying if a waterline broke and we said, no we're not going to change the policy. We're going to leave it at \$20,000 and tomorrow something bad happened and Angie said that she had to go buy a bunch of stuff, so she couldn't do that.

Jocelyn Holguin, Finance Director: An emergency is exempt from the policies.

Commissioner Fahl: So, what he's saying is I want to know what we're spending money on. A two week window isn't going to make or break anything unless it's an emergency, and you're saying that Angie can approve emergency purchases.

Mayor Hechler: So, we really can't act anyway unless we change the resolution. Is that correct?

City Attorney Rubin: Yes.

Mayor Hechler: Can we work up the resolution to encompass what we have discussed, and out that in the resolution and we will discuss it. As far as changing the threshold, as

well to put it on the consent calendar so we can work through all of that issue and then we can talk about that. Will that get us closer?

Commissioner Fahl: At least there would be some options that we could see in writing. I think that we all want to know what we are spending our money on, and if it's two weeks, unless it's an emergency, what is two weeks going to matter anyway.

Commissioner Fahl made a motion to table the Increase Commission Approval Threshold until a resolution is brought forward. Commissioner Hoeppe seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

4. Discussion/Action: New IT Part-Time Position.

Jocelyn Holguin, Finance Director: We had discussions with management and staff, and also based on the current IT who has mentioned that he does not want to renew his contract at the end of the fiscal year, so we think it is best to have a person in place to get the directive of the items that he's already done. Based on the numbers that we are currently paying and what we pay out for the subcontractors, we would actually be saving a lot more money by putting a part-time person in. We would like this to be a determination by the end of the fiscal year to see if we want to bump the position up to full-time.

Mayor Hechler: So, we wouldn't be putting this position on board simultaneously. Are we going to wait until Mike leaves or are we going to bring this person on board while he is still here.

Jocelyn Holguin, Finance Director: Mike will stay on for a period of time to help the transition, but from feedback from our IT support, I think we should move forward with moving the position forward.

Commissioner Hoeppe: What is the position going to be for? Everything pertaining to IT?

Jocelyn Holguin, Finance Director: It will be for the IT services. We need maintenance, and we also need a backup server that we don't have. We need to clean up a lot of the email stuff, and basically the communication, and the response is a big thing that we are lacking that we need. I feel if we could have an onsite person that could also work remotely, that will eliminate a lot of the pressure that the staff has, and that is kind of what I am looking at as well.

Commissioner Mitchell made a motion to approve the New IT Part-Time Position. Commissioner Hoeppe seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

5. Discussion/Action: Liquid Waste Dumping Agreement – Annual Renewal Request.

Assistant City Manager Alvarez: This is the liquid waste dumping agreement that we have with Talon Septic. It expired on December 31, 2024, but the agreement does have the ability to extend annually for an additional 2 years. Talon Septic is requesting an extension to the agreement, and we have Mark Shipley here to speak on behalf of it as well.

Mark Shipley, Talon Septic: I want to express our gratitude to be able to work with the City of T or C. I'll go over why this was a necessary thing that needed to happen. The place that the County had was way out of compliance with the Environmental Department, so they were being shut down. We were graciously granted an opportunity to provide a measured amount of liquid waste to dump with a variety of constrictions of knowing the possibility of common place. We service the City, Elephant Butte, and the County. Once we were granted permission, we started the process of working with the Environmental Department and the Brown Water Bureau to procure a permit to be our own disposal facility, and through that it required a lot of engineering, sampling, soils and testing, and a measure of things that we had to do to deal with liquid waste and septic. We are in the final process of being granted our permanent permit for waste disposal and having granted a temporary discharge permit by the Brown Water Bureau, that permit allows us to begin the construction of the land and also meet the requirements that they want us to meet. We already put in posts for a fence because it has to be a gated area. We have WIFI cameras that also have to go up, and then of course all of the documentation. They will come down and do the inspection for that. The temporary permit is for 120 days once we establish and complete the sales that they require for that, which we anticipate being at the end of this month. Given what our request was for, we don't need an entire year, so we are requesting an extension for 6 months. After that time, they will be granting us the full permit to have our own facility to dump at. In that time, we will be starting to transition away from the city facility.

Commissioner Fahl made a motion to approve the Liquid Waste Dumping Agreement Renewal Request for a 6 month term. Commissioner Mitchell seconded the motion. Roll call was taken by the Clerk-Treasurer. Motion carried unanimously.

I. EXECUTIVE SESSION:

1. Limited Personnel Matters (Pertaining to City Manager Interviews & Possible Selection) Pursuant to 10-15-1(H.2).

Commissioner Fahl made a motion to go into executive session at 11:15 a.m. to discuss Limited Personnel Matters (Pertaining to City Manager Interviews & Possible Selection) Pursuant to 10-15-1(H.2). Commissioner Mitchell seconded the motion. Roll call vote was taken by the Clerk-Treasurer. Motion carried unanimously.

CITY COMMISSION JANUARY 8, 2025 REGULAR MEETING MINUTES

Mayor Hechler reconvened the meeting in open session at 11:30 a.m.

Commissioner Fahl certified that only matters pertaining to Limited Personnel Matters (Pertaining to City Manager Interviews & Possible Selection) Pursuant to 10-15-1(H.2) were discussed in Executive Session and no action was taken in executive session.

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

- 1. Limited Personnel Matters (Pertaining to City Manager Interviews & Possible Selection) Pursuant to 10-15-1(H.2).**

No action was taken.

- 2. Threatened & Pending Litigation (Hot Springs Land Development) pursuant to 10-15-1(H.7).** *(Action for this item was moved from the beginning to the end of the meeting)*

Commissioner Fahl made a motion to authorize City Attorney Rubin to follow up the New Mexico Self Insurers Fund to bring the Hot Springs Land Development matter to a conclusion. Commissioner Mitchell seconded the motion. Motion carried unanimously.

K. ADJOURNMENT:

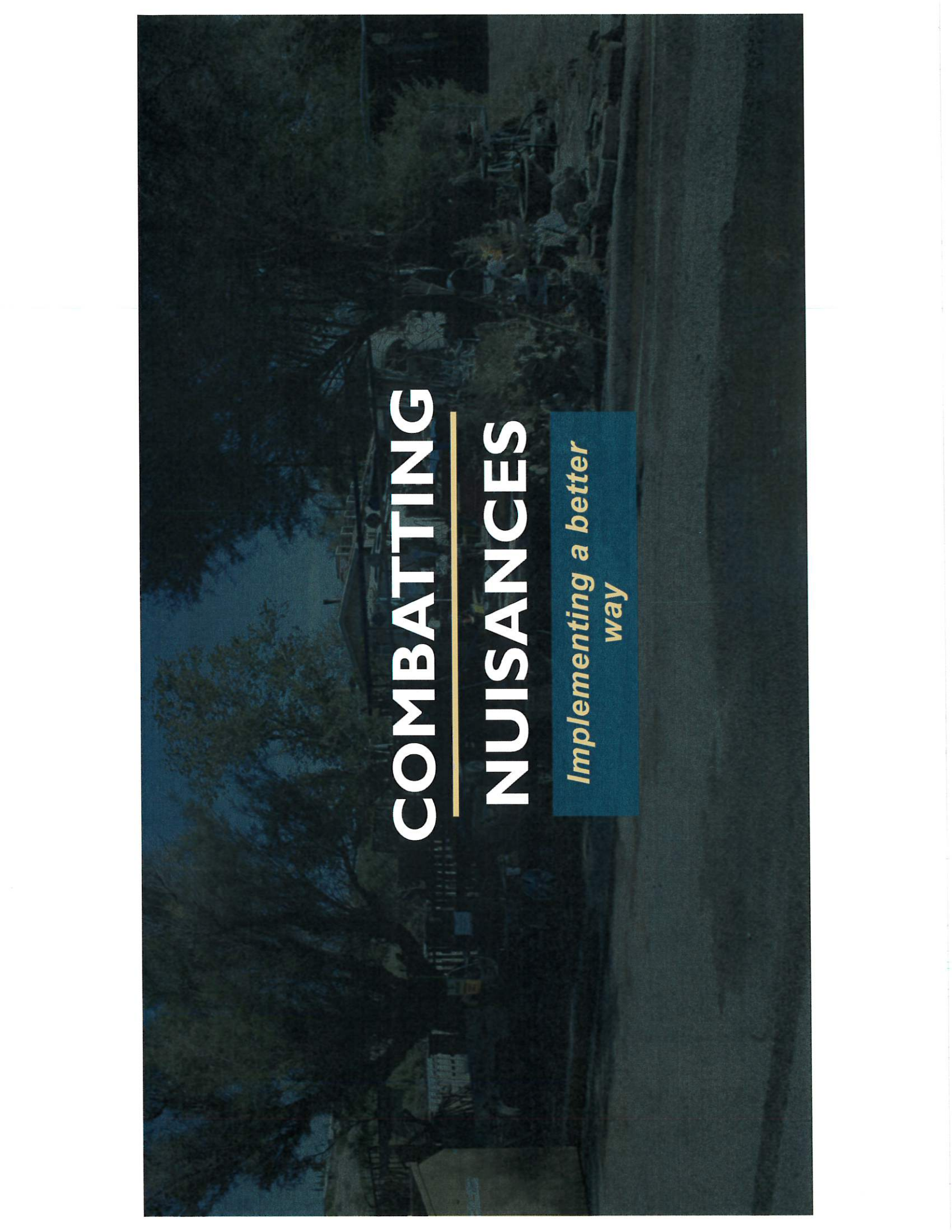
Mayor Hechler adjourned the meeting at 11:32 a.m.

Passed and Approved this 22nd day of January, 2025.


Rolf Hechler, Mayor

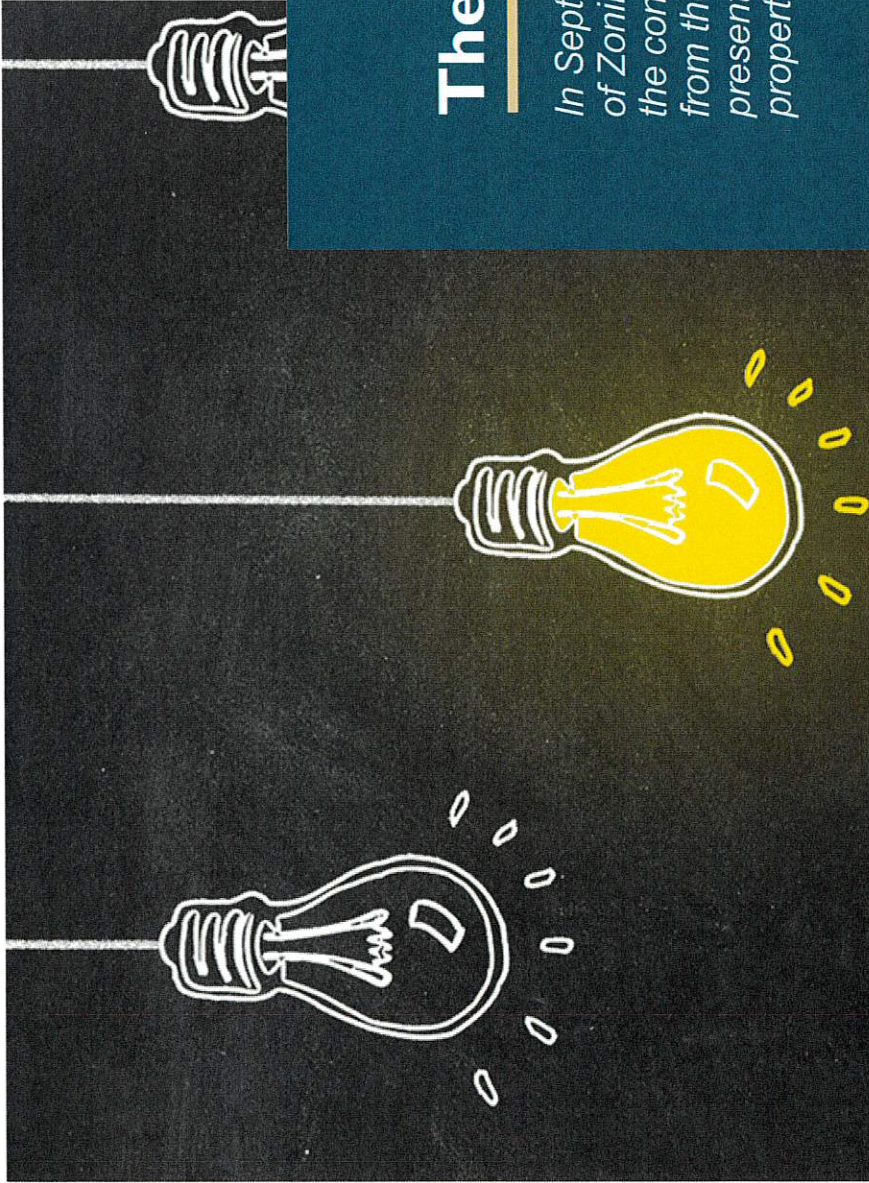

ATTEST:


Angela A. Torres, CMC, City Clerk



COMBATTING --- NUISANCES

*Implementing a better
way*



The Idea

In September, I attended the New Mexico League of Zoning Officials Conference in Carlsbad. During the conference, the Head of Planning and Zoning from the Town of Edgewood, Brad Hill, gave a presentation on how his town combats nuisance properties.

WHY DO WE NEED A NEW APPROACH?

Our current Code Enforcement process is lengthy. Citizens are unhappy with the services that are being provided because they feel as if nothing is being done.

Our current process is causing nuisance abatement to take over six months, and in some cases, years, to complete. An example of this is the property at 731 Wyona Street that got stuck in the process for three years.

Bureaucratic processes aren't the only problems we face. Municipal and Magistrate judges don't want to hear City Code cases, so they usually fail to provide the results needed for a property to get cleaned. On that same note, initial hearings for City Code cases are over a month after a criminal citation or complaint is filed. This means that even after a property owner is taken to court, the case will last at least another month, not including the time given to the property owner by a judge to clean the property.

CRIMINAL CITATIONS VS. CIVIL VIOLATION

Criminal Citation



- Respondent is an individual
- Redress is limited to action against the respondent
- Standard of proof is beyond a reasonable doubt
- Matter is heard by a judge

Civil Violation



- Complaint is against the state of the property
- Redress can be an order for the respondent to comply or allow for complaint to correct
- Standard of proof is preponderance of the evidence
- Matter is heard by a hearing examiner

PROPOSED PROCESS

Step 1



A property has been identified as a nuisance.

Notify the owner with a courtesy notice (10 days)

Step 2



Serve owner with Notice to Abate and post sign on the property with "Notice to Abate" (10 days)

Step 3



Proper notice of hearing is given. The matter is presented to a Zoning Hearing Examiner who may issue an Order to Abate.

Step 4



Abatement of the nuisance property by City.

Step 5



A Municipal Lien is placed on property for all costs incurred during abatement

NUISANCE ABATED

Step 1: Notify

Post or mail a courtesy letter to the property owner advising them of violations present on the property. The courtesy letter will give the property owner ten days to remove violations.



CITY OF TRUTH OR CONSEQUENCES
OFFICE OF CODE ENFORCEMENT
507 McAdoo Street
Truth or Consequences, New Mexico 87901
PD (575) 894-1204



COURTESY NOTICE

Date: _____ Location: _____

VIOLATION(S):

☐ Section 6-78. – Weeds, responsibility of owner

☐ Section 6-76. – Accumulation of solid waste

☐ Section 6-74. – Unsanitary premises

☐ Section 6-52. – Vehicle prohibited acts and exceptions (Unregistered / Disabled vehicle)

☐ Other: _____

Requirements for Correction:

We respectfully ask that you take action to remove the listed violations before _____.

Follow-Up Inspection Date: _____

A follow-up inspection will occur on the inspection date listed above. If a violation is found at that time, a citation may be issued to the owner, agent, lessee or occupant of the property. If you have any questions, please do not hesitate to contact the Truth or Consequences Police Department at (575) 894-1204 and request to speak with Code Enforcement.

Not complying with this notice may result in a penalty of \$500 fine and/or 90 days in jail or both.

Thank you for your attention to this matter.

Inspector / Code Enforcement Officer: _____

Step 2: Notice to Abate

1. Post a sign and Notice to Abate paperwork on the property
2. Send a letter via regular mail and Certified Mail giving ten days to remove the nuisance and fifteen days to schedule a hearing with the Hearing Examiner.

WARNING NOTICE OF VIOLATION NOTICE TO ABATE

CITY OF TRUTH OR CONSEQUENCES

THE FOLLOWING PROPERTY HAS BEEN DETERMINED TO BE IN VIOLATION OF ORDINANCE #####-##
DILAPITATED BUILDING AND UNSIGHTLY DUMPING OF DEBRIS AND/OR TRASH

YOU MUST REMOVE THE ABOVE NUISANCE WITHIN TEN DAYS OF THE DATE ON THIS POSTING. FAILURE TO DO SO MAY RESULT IN THE REMOVAL OF THE NUISANCE BY THE CITY OF TRUTH OR CONSEQUENCES WITH THE RESULTING COST TO BE IMPOSED UPON THE PROPERTY AND THE OWNER OF RECORD.

YOU HAVE THE RIGHT TO APPEAL THIS NOTICE BEFORE THE ZONING HEARING EXAMINER WITHIN FIFTEEN (15) DAYS OF THE DATE ON THIS POSTING. TO REQUEST AN APPEAL, CALL THE CITY OF TRUTH OR CONSEQUENCES CODE ENFORCEMENT OFFICE AT 575-894-1204. IN THE EVENT NO APPEAL IS FILED ON THIS MATTER THE CITY MAY PROCEED WITH THE ABATEMENT.

DATE OF POSTING: _____ CERTIFIED MAIL: _____

BY OFFICER: _____

THIS SIGN IS PROPERTY OF THE CITY OF TRUTH OR CONSEQUENCES, DO NOT REMOVE, DEFACE OR DAMAGE

Step 3: Notice of Hearing

If the ten days listed on the Notice to Abate has passed, the property owner will still have five days to request a hearing from the Hearing Examiner.

If the owner does not request a hearing, within that time, a Notice of Hearing will be posted on the property.

PUBLIC NOTICE **NOTICE OF HEARING** **FOR ABATEMENT OF NUISANCE**

THE CITY OF TRUTH OR CONSEQUENCES / CODE ENFORCEMENT HAS DETERMINED THAT THIS PROPERTY IS IN VIOLATION OF ORDINANCE ###-##-##
AND IS REQUESTING A HEARING AS PROVIDED UNDER ###-##-##.
DILAPITATED BUILDING AND/OR UNSIGHTLY DUMPING OF DEBRIS AND/OR TRASH

OWNER / RESPONDENT: _____

PROPERTY LOCATION: _____

LOCATION OF HEARING: 405 WEST THIRD AVENUE, TRUTH OR CONSEQUENCES, NM 87901 / CITY COMMISSION CHAMBERS

HEARING DATE: _____ TIME: _____

FOR FURTHER INFORMATION, CALL THE CITY OF TRUTH OR CONSEQUENCES CODE ENFORCEMENT OFFICE AT 575-894-1204.

DATE OF POSTING: _____ CERTIFIED MAIL: _____

THIS SIGN IS PROPERTY OF THE CITY OF TRUTH OR CONSEQUENCES. DO NOT REMOVE, DEFACE OR DAMAGE

Step 4: Conduct a Hearing

As previously stated, we need to stop going through the Criminal process and go solely based through a Civil Process.

During a Civil Process, there is no “Guilty” or “Not Guilty” plea. There are Stipulations.

The standard of proof is “Preponderance of the Evidence” in a civil case. This means that something is more likely true than not.

Hearings are public and somewhat informal.

Hearings are held once a month.

After the hearing is conducted, the property owner has a right to appeal the decision to the Planning and Zoning Board within 30 days. However, a \$400 non-refundable fee is charged to anyone who wishes to appeal to the Planning and Zoning Board.

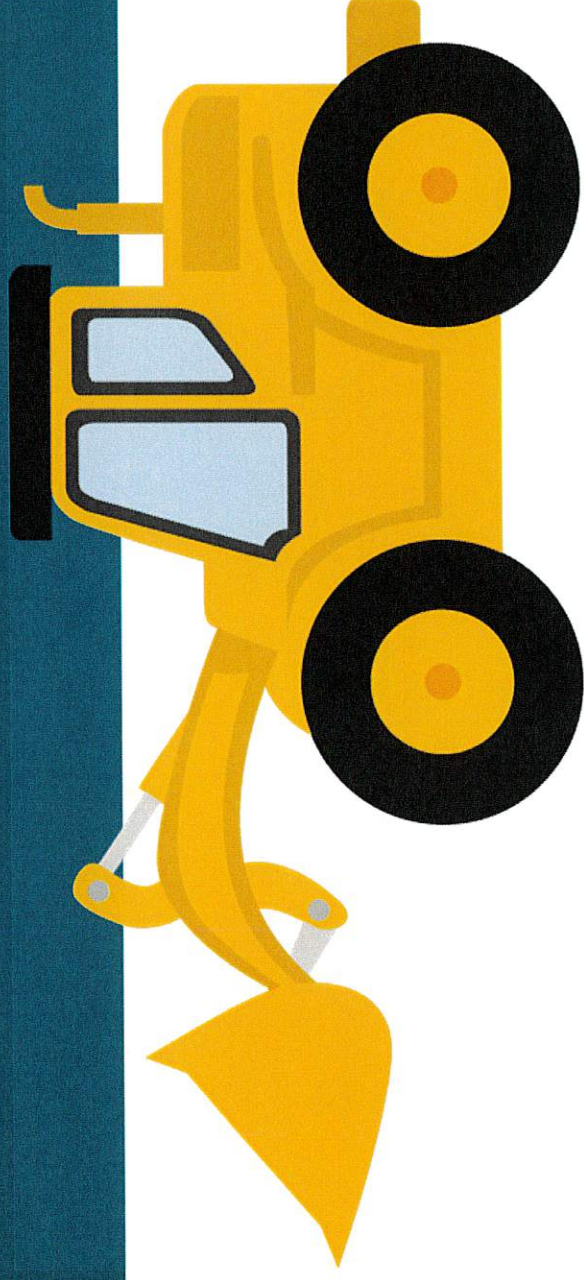
If the property owner wishes, they may appeal a Planning and Zoning Decision to the Governing Body (The City Commission.)

The Governing Body decision can then be appealed to the District Court.

Step 5: Abate the Nuisance

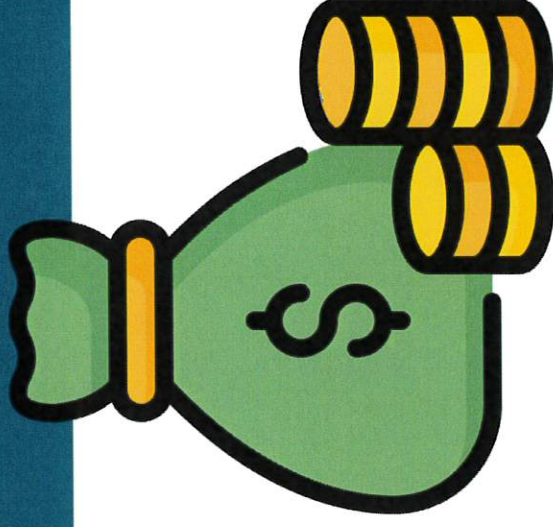
During a hearing, a decision will be made by the Hearing Examiner on how the property will be brought into compliance.

Property owners may wish to hire a contractor they already know, contractors may wish to approach the property owner with an offer on cleaning the property, etc.



Step 6: Indemnification

If an abatement is performed by the City, an invoice of all costs incurred by the City or other amounts or fines (such as appeal fees) shall be sent to the respondent and a Municipal Lien will be filed in accordance to NMSA 1978 § 3-36-1. This will allow the City to seek Tax Sale Relief or Foreclose on the property.



WHY DOES THIS PROCESS WORK



Expedited Process

Though there is paperwork, there is less of a chance for the paperwork to sit on a desk. The process can continue during the time specified by the notices, not get held up.



Allows the Public to Help

Because the hearings for this process are public, contractors can plan to go to them and attempt to work with property owners.



Follow Through

With this process, people that receive notice know that there will be follow through with the process. They understand that we won't go away.



Allows the Public to be Heard

Because we are posting bright signs advising everyone of violations on a property, the public feels like their complaints actually matter, because they do. They allow the public to see the process progress.



Helps small businesses in the community

Contractors will most likely be contacted by respondents wishing to come into compliance or members of the public who wish to stay in compliance.

BUDGET

Where does the money come from?

The Town of Edgewood passed Resolution 2023-09 which established a revolving Nuisance Abatement Fund by re-allocating the funds received from the Cannabis Excise Tax (About \$8,000 a month). The resolution also has a sunset clause, causing it to go away and allow it to sustain itself with the fees. Funds received via Municipal Liens, appeal fees or other means throughout the process will also be returned to the Nuisance Abatement Fund.

Currently the City of Truth or Consequences has a Cannabis Excise Tax that receives similar amounts that is put into the General Fund. With a resolution similar to 2023-09, the funds needed to clean nuisance properties is consistently available and builds back up quickly.

A PROACTIVE APPROACH

The Town of Edgewood also has a few ways they help prevent violations from occurring in the first place.

1. Vacant Structure or Foreclosed Property Registration

Property owners of Vacant Structures or Foreclosed properties shall register the property by providing names and addresses of any and all owners or interest holders known to the party, a description of the premises, contact information for property owner(s).

RESULTS OF THE PROCESS

Since implementing this process in 2023, the Town of Edgewood has abated 33 nuisance properties.

Edgewood's approach to nuisance properties has driven many New Mexican Counties and Municipalities to follow their lead. The City of Santa Fe, Santa Fe County and the City of Albuquerque have all started implementing similar processes.

Within the Town of Edgewood, residents applaud the Town Commission and Code Enforcement for handling the nuisances in a timely manner. Because properties are being cleaned and property owners are being held accountable, other residents have begun cleaning their yards proactively before they reach the point of non-compliance.

WHAT ELSE?



Community Outreach

Problem properties will be listed on the City of Truth or Consequences website and Code Enforcement will speak at regular Commission Meetings on current issues.



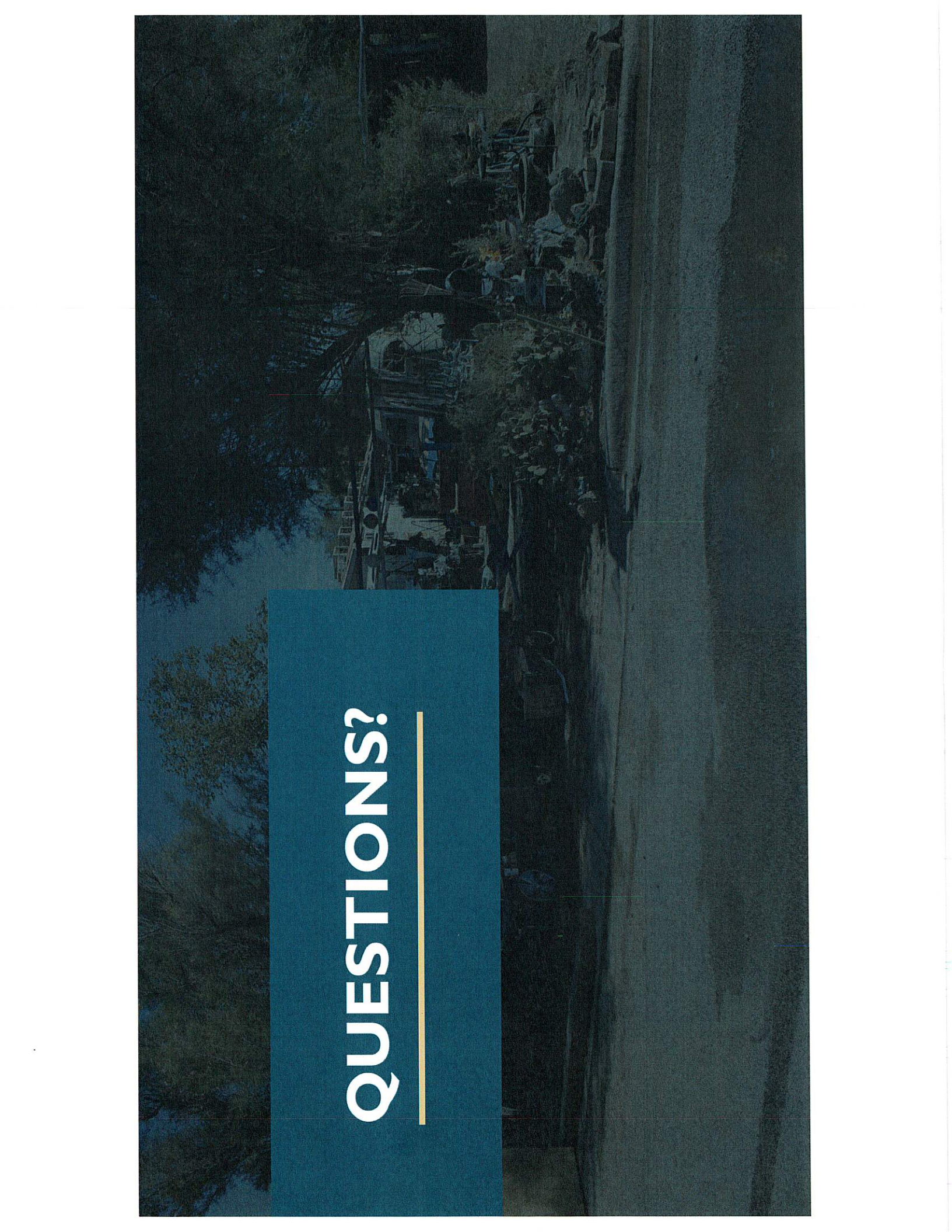
Online Based Reporting

An online reporting form will be available for residents to file complaints 24-hours a day, seven days a week.



Educate

Newsletters and media publications are created to educate residents on violations and how to prevent them.



QUESTIONS?

