

**CITY OF TRUTH OR CONSEQUENCES
PUBLIC UTILITY ADVISORY BOARD
MONDAY, APRIL 18, 2022**

MINUTES

REGULAR MEETING

Regular meeting of the Public Utility Advisory Board of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, April 18, 2022 at 3:30 pm.

CALL TO ORDER:

The meeting was called to order by Chairman Szigeti.

ROLL CALL:

George Szigeti, Chairman
Jeff Dornbusch, Vice-Chairman
Ron Pacourek, Member
Gil Avelar, Member
Don Armijo, Member

ALSO PRESENT:

Bruce Swingle, City Manager
Bo Easley, Electric Department Head
Sonya Renfro, Utility Department Manager
Dawn C. Barclay, Deputy City Clerk

1. APPROVAL OF AGENDA

Chairman Szigeti mentioned that 4C should be put under New Business as this subject has not come before the board previously.

Member Pacourek stated that he had requested for Ordinance 712 be on the agenda. He had a written request to have it put on the agenda.

Chairman Szigeti stated that that is a separate issue and it is not on the agenda and they cannot add it now.

Chairman Szigeti made a motion to approve the agenda with changes.

Member Armijo seconded the motion.

Motion carried unanimously.

2. APPROVAL OF MINUTES:

- a. Regular meeting of March 21, 2022.

Vice-Chairman Dornbusch made a motion made a motion to approve the minutes.

Member Armijo seconded the motion.

Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC: (3 Minute rule applies)

Ron Fenn stated that he's been looking at a lot of financial reports. He looked at the quarterly report and that 4 ½ months is not a quarter. Consumption from December to April 14th there is a revenue figure and consumption and he doesn't know why they bother when there are reports such as the utility summary report that totally different numbers on it. The financial report from the City finances also has different numbers for the same items. He said that he doesn't know which numbers are accurate. The reports are totally meaningless and a waste of time. The utility summary report is bogus because they are adding production as consumption. He did a report on the January solar users. The total net difference is not 25,000 kilowatt hours but 2600 and the cost is \$345 and not \$3,232 that is reported in the utility summary report. You do not know how to do net metering. Nobody knows how to do net metering. He said that the numbers are screwed up and the solar is not a drain on the city. Ariel Dougherty read from notes that she had prepared. (Attached)

4. OLD BUSINESS:

a. Discussion/Action: Quarterly Utility Department Reports. George Szigeti

Sonya Renfro advised the board that most of the delinquent notices are for people that are 2 months behind and they usually come and pay up after they receive the delinquent notice and then it moves down to the red tag process which has come down quite a bit. Chairman Szigeti stated that there are approximately 120 red tags a month for the last 3 months. Sonya stated that Rent Help New Mexico is still helping people pay for their house utility bills up until September of 2022. They just got notified that they also have a program for water/waste water too and they're paying peoples accounts up to \$1500 that qualify, which is a great help; a lot of people have taken advantage of this as well.

Vice-Chairman Dornbusch asked if most of the payments were for non-payment and Sonya advised that all of the red tags were for non-payment. She stated that the current red tags issued are down quite a bit from before.

Member Pacourek asked that if the programs are going to end that are helping out the customers.

Sonya advised them that it will end in September 2022. The program is not through the utility office, it is through the state. Sonya went on to remind everyone that it is the water conservation time of year from now until September.

Member Pacourek asked if the \$50 red tag fee covers the interest lost in the months that didn't get paid. Sonya said that it does and that the customer also gets penalized 1.5% of their utilities. If some customer happens to be in the hospital when they get red tagged, they work with them on the fees but the penalties are forever.

Bo Easley reported on their quarterly reports from December 2021, January 2022, February 2022, and March 2022 were lacking the tri-states bill from March, but they did get it that day, although they weren't able to get it on there on time for the meeting. They have 75 completed, 22 pending. There is a list of projects and the status of where they are with them. Chairman Szigeti asked if the transformer was put in and Bo said that it was put in and was put online and is running as of last Wednesday. The only problem that they had was the oil tanker that pumped the oil out, they had to get a new one and it arrived the next morning. It put them a day behind but they finished before the deadline. Vice-Chairman Dornbusch commented that the new transformer looked smaller than the old one and asked if it was more efficient. Bo answered yes. He stated that the new transformer has a solar ray on it.

Chairman asked how they were on staffing. Bo answered that he is short 2 guys. They are having trouble finding individuals who want to work with electricity for \$13 an hour and people don't really want to work either.

Member Pacourek said that the White Sands building, the New Mexico Veteran's Center, the Dollar General are 6 700 square foot buildings. Bo stated that it was a typo 6 7,000 to 10,000 square foot buildings. For New Mexico Veteran's Center new buildings, they are going to build 6 buildings up front. The other New Mexico State Veteran's building they are updating the transformer in the back. They are updating the service.

Bo went on to say that the Dollar General is going to build across the street from the Veteran's Center; the empty lot will be a new Dollar General. Member Pacourek stated that he thinks that they should consider putting a traffic light there because of traffic coming from the north. Bo advised him that DOT would have to handle that. Member Pacourek mentioned that the project report should apply to the Impact Fee Board because of the money for the White Sands building; an upgrade for a new transformer. He stated that these things should be in the Impact Fee Board that they should be looking at monthly. He said that the information needs to come from the City to the board. Chairman Szigeti stated that they have their bi-annual meeting and most of these items are not that critical

that they have to call for a Special meeting. He stated that he is sure that they will receive a report at the next Impact Fee Board meeting.

Chairman Szigeti asked if there was anything else to discuss. Bo advised that they are just very understaffed at this time. Member Avelar stated that the same people over and over are having the water problems.

b. Discussion/Review: Role and Responsibilities of the Public Utility Advisory Board.

George Szigeti

Chairman Szigeti read items from a handout regarding items from Sec. 2-273 (Attached)

5. NEW BUSINESS:

a. Discussion/Action: Sierra Electric Coop's offer to purchase the Truth or Consequences Electric Utility. George Szigeti

Chairman Szigeti started off by addressing Ariel Dougherty's comments; the reason that he brought this for discussion before that board is because the total information that the board has concerning the offer was contained in the packet. The board has received nothing but anecdotal information on this proposal. He is a little upset that the proposal for the feasibility study was taken to the Commission without even mentioning it to the board. The sale has been posted in the newspapers. The board needs to know what is going on with that. If they are doing feasibility studies, someone from the board should be involved with this to begin with. They should at least be meeting regularly with the contractor that is doing this study and any information that comes out, needs to be shared with the public. It has been in the newspapers and people are asking questions, and since there is nothing concrete out there, people are forming all kinds of opinions on it. This is going to go through the Commission, but it will also have to go for a public hearing and it is important that the citizens of the community understand what is going on, so that when this actually comes up for a decision, they can comment on it intelligently. He asked if the City Manager could give them any more specific information on how this all started and where it came from. City Manager Swingle stated that the sale of property is a very confidential matter to a point. The city's first opportunity to disclose its interest in this idea was with the MOU with the co-op investigating the feasibility of the potential sale of the electric department infrastructure. A study was agreed upon. Phase 1, which is where they are currently, is looking at the feasibility whether it is in the city's best interest, the co-ops best interest, and the public's best interest for them to do this. At the end of the day, when they get the final report, it is going to tell them that. There is no dollar value that says your company is worth X number of dollars. On a draft, what he saw was that the infrastructure is valued at about \$10 million dollars. There is no offer, there's never been an offer, and there won't be an offer for a considerable amount of time. This is his first experience with this type of sale of a utility company. His understanding is that they're looking at a year to two years for that entire process to take place. It has now only been maybe 4 months where they have discussed it. They are currently waiting on the report; hopefully they will have it soon. It is not going to tell them what they are offering; it will tell them what the value of their infrastructure is at the time of the evaluation. It will tell them if it is the community's best interest, which is the most important thing. It originated with members of the community coming forward and saying that the City has no business running an electric company. Several members have brought that to his attention as well as the commissioners. Then they had the issue of looking last summer where they lost a transformer. The second one was failing when they started getting into the high heats. By looking at the situation, they have hard working individuals in the electric department that keep the grid up and running. The intent of wanting to sell the electric company is no reflection on the good work that they do. They have a utility office that does billing, so we have a line staff and a billing staff.

The overall administrative component, the engineering component to the electric department, we don't have. Where are they supposed to be in 5 years? Where are they supposed to be in 10 years with their infrastructure with their electricity needs for the community? They don't have that component because they don't have an administrative component to their utilities. They have a director of billing and there is a director in each utility department. They don't have that PE or individual serving as the actual administrator doing the strategic planning in this organization. They ran into the issue with the compliance of PRC and non-compliance with PRC. They are not required to comply with the PRC, so whatever their rules are, do not apply to them. They can run the municipal electric company anyway that the commission deems fit. They have had some issues that have surfaced in regards to how they belong to the PRC, where they've complied with the regulations that are not within the consumer's best interest that they are not held to some standards. They won't be able to take the surplus revenue that the electric department generates. When you look at the infrastructure in the long term, it's in dire need of an update. Under the current state, that is not going to happen and the City needs the revenue for general fund purposes. There are other components on the efficiency of electricity that there are standards out there that they don't comply with, such as dealing with line loss, managing line loss, monitoring line loss and things of that nature and they are not required to. Citywide they have a pretty good idea of what some of the PRC rules are and what their intent is to protect the grant as well as the consumer, but we don't have any idea of what the overall requirements are. That is what precipitated the idea. It's not an easy decision, because we have a great staff doing the work that they're doing, however, we need additional staff, we need that administrative component. And if we do that, it going to be an additional cost. As far as phase, there are regulatory issues on the co-op side and there are financial issues. There would be a negotiation at some point. They have a lot of different contracts and power sources that they are receiving power from, and all of that will be tied into the second phase. Vice-Chairman Dornbusch stated that he compares it to they want to see their vehicle because they have to register it and insure it. He doesn't understand who initiated the process. Was it because they don't have enough money to pay the bill or because they have to update their electrical and they don't want to do it? Is it because Sierra Electric Co-op sees us as their only customer and that the City can put them under, so they're doing this for self-preservation methods? He wants to know who decided that they would entertain selling the electric department. City Manager Swingle advised that it was the commission that they should investigate and explore it. He advised the board not to get upset that the City is exploring opportunities. Vice-Chairman Dornbusch advised that he is upset that he is on the PUAB and is totally in the dark about all of this. The rumor has a good foundation from what he hears about their arguments and it is because they can't provide services of 100% of the revenue of the city, how are they going to provide services after Sierra Electric takes their chunk out of it. City Manager Swingle stated that the city will have to grow its revenue streams whether they keep the electric department or not, they will need to grow their revenue or they will have to make changes in services. Vice-Chairman stated that this is really disturbing him as this push to make all of the departments self-sufficient. He is asking how all of the departments are going to do this. City Manager Swingle stated that there is no department self-sufficient. He stated that their enterprise funds should be self-sufficient. This is a long and confidential process on what the consultants are doing. He has only seen a draft of some numbers but has yet to see the report. Chairman Szigeti stated that the city needs to increase revenues or cut services. City Manager Swingle advised the board that right now they collect \$4.2 million dollars revenue wise for the general fund. Right now they have budget requests for this 20-23 FY for \$6.4 million dollars. The departments are operating on fumes budget wise. Hypothetically, if they were able to sell the electric department for \$15

million dollars, on average they take \$1.5 million from the electric department for the general fund. If they sold the electric department for \$15 million dollars, that would give them 10 years to get revenues in order. If it's not in the public's best interest to ensure the integrity of the grid to ensure that the requirements that are there to protect the consumer are in place.

Chairman Szigeti made a motion that before the feasibility studies are presented to the City that the board can look at it and discuss it and make comment on it, and that they be allowed to send their comments along to the commission.

Member Pacourek seconded the motion.

Motion carried unanimously.

6. REPORTS FROM THE BOARD

Chairman Szigeti addressed Member Pacourek saying that he did not put his item on the agenda because his communication merely said that he wanted to put Ordinance No. 712 on the agenda. If you want to bring something up or make an amendment to it, you should state the purpose for putting it on the board is for amending it and then get a summary of the amendment that you are proposing, so that we know what the intent is.

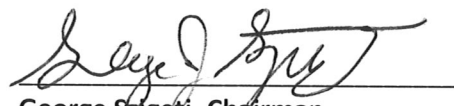
7. REPORTS FROM STAFF

City Manager Swingle stated that they are into the budget process now, so he wants to encourage them to put this on the agenda for the next meeting. They are preliminary budgets at this point.

8. ADJOURNMENT:

There being no further business to come before the Public Utility Advisory Board, Chairman Szigeti made a motion to adjourn the meeting. *Member Pacourek seconded the motion.* Motion carried unanimously. The meeting was adjourned.

PASSED AND APPROVED ON THIS 16th DAY OF MAY 2022.



George Szigeti, Chairman
Public Utility Advisory Board

PUAB Meeting April 18, 2022
Ariel Dougherty

Greetings, PUAB members. I wrote you earlier today urging you drop 4.c.

Discussion/Action: Sierra Electric Coop's offer to purchase the Truth or Consequences Electric Utility from the agenda.

The issue, **First off**, is *not old business*. No offer from Sierra Electric has not come before this board meeting in the past. That it is listed as such under Discussion/Action is highly problematic and disingenuous. Months ago when the MOU came before the Commission I underscored how the possible sale of our electric system was being ~~being~~ handled backwards. Where is ^{the} ~~our~~ value of our electric system? Where are possible offers from other entities?

Two, there is NO offer provided in the packet....no documentation to back up such a discussion—let alone action. How can you discuss this with no information? The failure to provide any documentation for the public to see 72 hours advance of your meeting violates the Open Meetings Act. On such a matter of large concern and value of a major public good it is a violation of the mandate of what an advisory board ~~is~~ directed to do. Any possible handout at the start of the meeting will not warrant or permit any of us in the public or your Board to fully or adequately evaluate any such offer that Sierra Electric might have made.

Three, as I would hope the value of the city's electric ~~h~~system is above \$20,000 this matter must ultimately be held before the public in a Public Hearing.

As you have not removed the item from your agenda, I urge you now table it. There is no way to have an open discussion until the documentation about the report and or analysis that was to come from the City's MOU with Sierra Electric is available. And we all can see what the actual offer is.

This issue has no transparency before the public and violates the public trust.

DIVISION 4. - PUBLIC UTILITY ADVISORY BOARD

Sec. 2-271. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public utilities means the electrical utility, the water utility, and the sewer and garbage facilities furnished by the City.

(Code 1962, § 2-8-3)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-272. - Established.

There is hereby established a Public Utility Advisory Board, referred to in this division as the Board, consisting of five members. In addition to the five members, the City Manager shall be an ex officio member. The Chairman of the Board will be elected by the appointed five members.

(Code 1962, § 2-8-1)

Sec. 2-273. - Appointment.

The members of the Board with the exception of the City Manager shall be appointed by the City Commission. The original members shall serve staggered terms and thereafter there shall be appointed by the City Commission members of the Board who shall serve for a two-year term. The terms of the members of the Board shall expire on June 30; provided, however, that any member of the Board shall continue to hold his office until his successor is appointed and qualified. The City Commission shall appoint at least one person with an electrical utility background, one person with a financial background, and a general contractor as members of the Board. If such qualified persons are not available or willing to serve, then the Commission shall appoint other competent persons to serve.

(Code 1962, § 2-8-2)

Sec. 2-274. - Powers and duties.

- (a) The Board may recommend general rules and policies of the municipal utility systems. The Board shall recommend rates and charges for electric power and energy, water or sewer utility service, or garbage collection service furnished by the City and shall recommend conditions of service applicable to the furnishing of such utilities.
- (b) The Board may recommend line extension policies to be followed by the municipal electric utility system and extension policies for municipal water and sewer utility services.
- (c) The Board may prepare and recommend an annual budget for the utility systems of the City conforming to the requirements of the ordinances of the City authorizing the issuance of electric, water, and sewer revenue bonds.
- (d) The Board may review from time to time all the rates and charges for electric, water, sewer, and garbage services furnished by the City and may submit the results of such review to the City Commission.
- (e) The Board may recommend to the City Commission any major extensions and improvements, not otherwise provided for by the City Commission, required to be made to or in connection with the utility systems, and not otherwise provided for in the annual budget. The Board shall include in such recommendations any engineering studies and other data obtained or prepared in connection with such proposed extensions and improvements.
- (f) The Board may endeavor to establish a comprehensive plan establishing the requirements of the City's utilities systems over the next ten-year period.
- (g) The Board may establish a procedure for setting rates for the utilities of the City which will guarantee a return sufficient to maintain the utility systems, expand them to meet growing needs, improve them to function in a modern manner, and

guarantee a reasonable return on the City's investment therein.

- (h) The Board is authorized to use the facilities of the City offices and shall have access to all records pertaining to the utilities of the City; provided, however, the Board shall not be authorized or empowered to expend any funds of the City or create any indebtedness on behalf of the City without the prior approval of the Commission.
- (i) The Board shall meet regularly at least once each month on a regular date to be designated by the Board; provided, however, that a special meeting may be called at any time by written request to the Chairman of the Board by three members or on call by the Chairman of the Board with the written consent of all members of the Board. All meetings whether regular or special shall be open to the public as provided by the laws of the state. Three members shall constitute a quorum, and no action can be had in the absence of a quorum present.
- (j) A vacancy shall be deemed to exist upon the resignation of any member of the Board, by his death or inability to act, or by removal of any member by four-fifths vote of the City Commission. Any member who fails to attend three consecutive, regular meetings of the Board, without excuse, shall be deemed to have resigned his office.
- (k) The members of the Board shall serve without compensation.
- (l) The Board shall appoint one of its members as Assistant Chairman and a Secretary to act as such at the pleasure of the Board. The Board shall adopt rules and regulations governing its proceedings.
- (m) The Board shall prepare reports of its activities and submit these reports and any recommendations for consideration by the Commission at least bimonthly at the second Commission meeting in the reporting month.
- (n) The Commission may furnish such administrative and clerical assistance to the Board as is reasonably necessary to accomplish its function.

(Code 1962, § 2-8-4)

Sec. 2-275. - Reserved.

Editor's note— Section 1 of Ord. No. 657, adopted Aug. 14, 2014, repealed § 2-275, which pertained to term limits, and derived from Ord. No. 643, § 1, adopted Oct. 22, 2013.

Secs. 2-276—2-290. - Reserved.