The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Special Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Monday, January 16, 2006 at 7:00 P.M. to discuss the following:

I. Closed Executive Session – Personnel 10-15-1H(2)
   A. City Manager

The meeting was called to order by Mayor Rainey who presided and Mary B. Penner, City Clerk acted as Secretary of the meeting.

Upon calling the roll the following Commissioners were reported present:

   Hon. Jimmy Rainey, Mayor
   Hon. Lois Reaver-Black, Mayor Pro-tem
   Hon. Lori S. Montgomery, Commissioner
   Hon. Evelyn B. Renfro, Commissioner

Absent was:

   Hon. Glen Stevenson, Commissioner

Also present:

   Mary B. Penner, City Clerk

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

“Commissioner Black moved that the meeting be closed for Executive Session – Personnel 10-15-1H(2)"

   Seconded by Commissioners Montgomery/Renfro
   All responded Yes to a Roll Call Vote.
   Motion carried unanimously.

“Mayor Rainey stated that the Commission was now in Open Session.”

“Commissioner Black certified that only matters pertaining to the, Personnel 10-15-1H(2) - City Manager was discussed in Executive Session”

   Seconded by Commissioner Renfro
   Motion carried unanimously.

City Attorney Jay Rubin stated that he has high regard for Mr. Aguilera and has worked well with him over the past several months and finds no legal reason to take any adverse action.

“Commissioner Montgomery moved that the Commission support and stand-by the City Manager 100%.”
ADJOURNMENT:

Seconded by Commissioner Renfro
Motion carried unanimously.

There being no further business to come before the Commission the meeting was adjourned.

APPROVAL:

PASSED AND APPROVED this 28th day of March, 2006
on motion duly made by Commissioner [signature], seconded by Commissioner [signature] and carried.

ATTEST:

MARY B. BENNER, CITY CLERK
TIME & PLACE: The Mayor and the City Commission of the City of Truth or Consequences in the County of Sierra and State of New Mexico met in Regular Session in full conformity with the law and ordinances of said Commission in the Commission Chambers of said City, on Wednesday, January 25, 2006 at 7:00 P.M.

PRESIDING OFFICER: The meeting was called to order by Mayor Rainey who presided and Mary B. Penner, City Clerk acted as Secretary of the meeting.

ATTENDANCE: Upon calling the roll the following Commissioners were reported present:

Hon. Jimmy L. Rainey, Mayor
Hon. Lois Reaver-Black, Mayor Pro-tem
Hon. Lori S. Montgomery, Commissioner
Hon. Evelyn B. Renfro, Commissioner
Hon. Glen Stevenson, Commissioner

Also present:

Jaime R. Aguilera, City Manager
Jay Rubin, City Attorney
Mary B. Penner, City Clerk

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

CEREMONY: Mayor Rainey called for fifteen seconds of Silent Meditation.

Commissioner Montgomery called for the Pledge of Allegiance.

APPROVAL OF AGENDA: Mayor Rainey called for approval of the Agenda.

"Commissioner Black moved approval of the Agenda as amended."

Seconded by Commissioners Stevenson/Renfro.

Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT: City Manager Aguilera responded to a comment from the January 9, 2006 by Ms. Susan Abis who talked about her dog and how it was attacked.

He stated he spoke with Animal Control Officer, Dee Brown who handled this case, and indicated from his explanation he was satisfied that the City had acted properly in putting her dog into quarantine, and at this point had Mr. Brown come forward and give the Commission the background and explain from the point when he arrived on the scene.

The following minutes are verbatim -

Mr. Dee Brown, Animal Control Officer came before the
Commission, and stated the night in question he received the call which came in as a dog bite, and indicated all dog bites have to be reported by State law.

He explained as he was handling the dog bite, and the pit bull that was running loose that got in the fight with Ms. Abts animal was running loose and he caught the dog and took it to the shelter for quarantine as he was under the impression that it was the animal that bit the victim.

Mr. Brown indicated after further investigation that Ms. Abts dog is the one who bit the victim and the dog he had quarantined, and I told the other owner to go out to the shelter and pay what fines and fees he had and take his animal home.

He indicated he home quarantined Ms. Abts animal because it was currently vaccinated for rabies, and stated that is standard procedure, and if the animal is currently vaccinated they do a home quarantine, if its not vaccinated its taken up to the Sierra Animal Shelter for a 10-day quarantine period at the owners expense.

Mr. Brown stated the owner of the animal that was loose was issued citations for restraint of animal, no vaccinations, and was issued a written warning for a vicious animal.

City Manager Aguilera stated the owner of the pit bull went to court on those citations, and that is up to the Judge as to how that was taken care of, and they checked to see if they have their pit bull properly restrained now.

Animal Control Officer Brown – the animal is restrained now, the Judge gave the fines and fees, or warnings, whatever he plead no contest to all the citations that were issued. And at that time after the Judge read the case the case is considered closed at this time.

City Manager Aguilera – Ms. Abts contention why was her dog quarantined, is because her dog is the one that did the biting which was a third party, a gentleman, a neighbor in the area that came into the fray trying to break up the two dogs and he is the one that was bit.

Commissioner Black – I did not understand, I thought it was the pit bull that did the biting, that’s what I gathered from her report.

Mayor Rainey – The pit bull did actually bite the dog.

ACO Brown – It didn’t bite the person trying to break up the fight.

City Manager Aguilera – The pit bull bit the Labrador, and in the process of breaking that fight between the Labrador and the pit bull the neighbor was bit in the leg, but he was bitten by the Labrador, which was Ms. Abts dog.

He indicated the quarantine has to do with the fact that it was an animal that bit a human being and had to be quarantined. Now the whole issue of the vicious animal ordinance only comes into play if that animal is believed by the ACO to be vicious and to be a danger to life or property.

City Manager Aguilera stated in officer Dee’s estimation the dog was just simply protecting his territory after the fight the dog settled back in and was taken to the vets office he is talking about
the pit bull, and then eventually taken back home where he hasn't been a problem, so the vicious animal ordinance doesn't apply in this case to that particular dog.

Commissioner Black – because it doesn't matter if he bit the lab, see I don't understand that.

City Manager Aguilera – this is a... in Mr. Dee's review of the entire case, the lab was a new animal on the block, the pit bull had been there for a long time. The pit bull felt territorial and when he got out it did attack the Labrador; however that was a one-time incident and not enough to be considered to be a vicious dog.

Commissioner Black – how many bites are they allowed before they are considered vicious.

City Manager Aguilera – well it's up to the judgement of the officers that are there, it could be one time if the dog not only bites, but if it kills, or if he can't be restrained, or whatever the circumstances are at the time it becomes a call of the officer that is in charge at the scene.

Commissioner Black – I see.

City Attorney Rubin – It's discretionary.

Commissioner Black – Thank you, thank you Dee.

Chief Peterson came before the Commission and stated that some of these calls he thinks to as far as how many times for something, each officer has a tolerance level, and some don't.

He explained that Dee was around both dogs that night and didn't feel a threat from either dog, and thinks the story changes with some of the players, and indicated it is pretty hard when you do not have cold facts and very seldom law enforcement gets a chance to review it all on a camera to see what took place.

Chief Peterson stated it is a very tough call and dogs were quarantined, and indicated it was a very difficult choice. He stated they left a lot of it up to the Judge. He thanked Dee.

Mayor Rainey stated he hopes this gives Ms. Abts a little bit of comfort knowing that we did investigate it and he thinks the decisions were correct. He stated that hopefully that will put this issue to bed.

Mayor Rainey explained that there is a 3-minute rule and it will apply, and after the comments from the public at that time that will be the only time that anyone in the audience will be allowed to speak unless he calls on them.

There was no one that wished to speak to the Commission.

Mayor Rainey stated they have one item under the Consent Calendar, Approval of Minutes – Regular Meeting, January 9, 2006.

"Commissioner Black moved approval of the Consent Calendar."

Seconded by Commissioner Renfro.
Motion carried unanimously.
Jaime Aguilera, City Manager stated this project was initially presented to staff first and then that was taken to the Utility Board in which they reviewed the application, they make several questions about the availability of sewer, water, and the location of those connections and the ability of the city to serve the electrical needs of that proposed sub-division. He indicated that eventually at the end of the meeting they were satisfied with the answers from the developer and from staff about the utilities, and they recommended to the Planning & Zoning Commission approval of the proposed sub-division. He stated the next step after that was then to present that item to the Planning & Zoning Commission.

He indicated the Planning Commission is the body that is empowered by this Commission to review land use issues and subdivisions. He stated they reviewed this particular application as a master sub-division, which is different than a preliminary plan. He stated he wants to make sure that the difference is understood. He stated that a master sub-division is not approval for the developer to go out and move lot lines or create lot lines or put up a building or get a building permit of any kind. He stated it is an approval of a master plan essentially so that in the future, his next step after approval of a master plan, his next step is then to apply again for a preliminary plat which is the process in which once that is approved they can begin to actually get building permits for construction of the streets and the sewer lines, and so forth.

City Manager Aguilera stated we are in the master plan process. He stated that as part of the normal process the city follows is that we notify any outside agencies that we believe might have some type of a concern or a reason to be involved in the process, so we notified the New Mexico Department of Transportation, the gas company, and the cable company and so forth. He stated one of the agencies they notified was the Flood Commission, and the Flood Commission wrote a letter to the City Planning Commission a long list of issues that they wanted the Commission to address. He stated some were very minor wanting to do with a signature block not being in the right place or the right name on the signature block and so fourth, most of the letter was minor. He indicated some of the more important items in the letter were discussed with the applicant, Mr. Ashbaugh and his Engineer at a meeting between staff and Mr. Ashbaugh and they agreed to comply with whatever we thought was necessary to comply with that was named in the letter. He stated they reviewed the letter with Mr. Ashbaugh, they made the necessary requirements and they made the necessary changes to the plans.

He stated that after the plans were amended they were then presented to the Planning Commission, and at the Planning Commission, the City Planning Commission did make long arguments and investigations into what had happened and how it has happened, how the plans were drawn and did they comply with the City Sub-Division Code, and had the issues been responded to that were sent to us by the Flood Commission. He stated that after all was said and done and there were comments from the public, the Planning Commission agreed that this is a master plan. He stated that some of the comments that were made by the Flood Commission and the public were not pertinent because they relate to actual construction and that's not what was before the Planning
Commission so they agreed that the master plan was an approvable document and then sent the recommendation to this body with their recommendation of approval of the master plan.

City Manager Aguilera stated that a description of what they are looking at Mr. Chris Nobes was in the audience who did most of the review of the project, he has plans of the project, the engineer for the project is also in the audience, and the owner of the property is in the audience.

He indicated it is a sub-division of land that is located on the northern part of town somewhat behind and above the Chevron gas station and it proposes to sub-divide the property into several commercial lots. He stated the City has requested two entry and exit points from the property. Mr. Ashbaugh at this point is only able to provide one so in order to make sure that he is able to provide two access points the staff is proposing that we hold back Phases III and IV of the project and not approve those in the future until such time as the secondary access is installed.

Further discussion ensued.

City Manager Aguilera stated that the recommendation by the staff to the Commission was for approval, the recommendation by the Planning Commission to the City Commission is for approval also.

"Commissioner Black moved to approve the Sub-Division Master Plan submitted by Ashbaugh Construction, Inc."

Seconded by Commissioner Renfro.
Motion carried unanimously.

**Public Utility Advisory Board – Allow City Manager to contract for an engineering study for the expansion of the existing Sewer Plant.**

City Manager Aguilera stated he attended a meeting with the Public Utility Advisory Board to discuss the Turtleback Golf Course using some of our sewer capacity. He stated in that discussion and related to that discussion was how much sewer capacity do we have left, and there was a concern that we do not have a plan for expanding the plant further. He indicated the Utility Board thought it would be a good idea to look into the possibility of enacting a utility expansion fee.

He stated that essentially what happens now when someone wants to build a house on a single family lot they get a building permit, they pay a utility connection fee which is $235.00 which really only pays for our time to send our crew out and cut the street and put two laterals, the water and the sewer, up to the edge of the property and then the builder would then go from there and connect into the house.

City Manager Aguilera explained that other municipalities in this situation have done in these situations is they look at it from a different point of view and they say we have built a sewer plant and a water treatment system or a water distribution system and everybody that connects to that is taking up space and taking the money from people that have already paid for that system through taxes, fees and so forth. He stated so anybody new that connects should be paying for future expansion so that we never run out of the ability to serve people. He indicated that’s what’s called a
Utility Expansion Fee.

He stated he looked into that when they talked to the Turtleback development and he added a $1,000.00 per connection, but that was done with some real quick math work without really doing a good engineering analysis. He stated what the Utility Advisory Board is recommending is they do an engineering analysis to figure out where they are going, how much are they expanding every year how much of the utilities are they using up, and how much time do they have left before they are all used up.

City Manager Aguilera stated they would do that analysis and they will estimate the cost of constructing new facilities, and then they will estimate how much every new customer that ties in should be paying in order to get to the point where they can build new facilities.

He stated this is a recommendation from the PUAB Board and staff that they look into this, and indicated the important thing for them to remember is that it is a fee that will not fall on existing rate payers, and explained that it is a fee that will fall on future development.

Commissioner Montgomery asked if they would do an RFP for engineering services with the scope that outlines just exactly what you just said.

City Manager Aguilera, that’s exactly right, that’s the first step, and depending on the extent of that work if it is over $10,000 then it is going to be an RFP, or if it is under that it maybe contracting with one of the local engineering firms.

Commissioner Renfro stated that was going to be her question, is what the cost was going to be.

City Manager Aguilera stated he thinks they can get it in at under $10,000 for the study, and explained a lot of the information is already there.

Commissioner Montgomery asked if there was money available to go out to RFP for that.

City Manager Aguilera stated there is $9,000 still available for contract services in the City Manager’s budget.

“Commissioner Stevenson moved that they direct City Manager Aguilera to contract for an engineering study for the utility expansion fee.”

Seconded by Commissioner Black.

Motion carried unanimously.

Draft minutes for the following boards, Planning & Zoning Board, Airport Advisory Board, and Golf Course Advisory Board –

City Manager Aguilera stated that all City boards are required periodically to update the Commission, and indicated the easiest way is to provide copies of their minutes. He stated that in the future on a monthly basis they would be providing them with their minutes.
He stated they do not require any action, however if they see anything in the minutes that prompt a question they can come back with an answer at a later meeting.

City Manager Aguilera stated there are other agencies that are not City board’s but that the City is a fiscal agent for, and they have also asked them that they provide them with the same information.

City Manager Aguilera stated this Final Adoption for Ordinance #550 pertains to City Commission Meetings and changing the meeting dates and time from the second and fourth Monday to the second and fourth Tuesday, and from 7:00 P.M., to 6:00 P.M.

Mayor Rainey opened the Public Hearing and asked if there was anyone, who would like to speak for or against Ordinance #550, and no comments were received, and the Public Hearing was closed.

"Commissioner Renfro moved adoption of Ordinance #550 – Pertaining to City Commission Meetings."

Seconded by Commissioners Montgomery/Stevenson. Motion carried unanimously.

Mr. Paul Tooley, President with the Truth or Consequences Municipal Schools came before the Commission to give a power point presentation for the upcoming School Bond Election to be held on Tuesday, February 7, 2006.

The Commission thanked Mr. Tooley for the presentation.

Ms. Nola Kent, DWI Coordinator came before the Commission asking approval on the Assurances & Cooperative Agreement DOH and MOU DFA/DOH.

She explained these are assurances and cooperative agreements to state that they will go by the HIPPA regulations which are the insurance protection for clients and for any health information as defined by the HIPPA regulations, and for the cooperative agreement for them to provide the DOH Epidemiology Department any records that they obtain so they can continue research on DWI.

"Commissioner Black moved approval the Assurances & Cooperative Agreement with DOH & MOU DFA/DOH."

Seconded by Commissioner Renfro. Motion carried unanimously.

Grant Application LDWI/Distribution 06/07 & Letter of Support.

Ms. Kent stated for the grant they are requesting $98,932.00, and under the distribution which is an estimated amount of $39,057.00 for a total request for the program this year of $137,989.00.

"Commissioner Black moved approval of the Grant Application for the LDWI Distribution 06/07 and letter of support."

Seconded by Commissioner Renfro. Motion carried unanimously.

City Manager Aguilera stated this is part of the City Clerk’s duties for the election process for the upcoming Municipal Election.
City Clerk Penner stated this is the List of Candidates for Office, Designation of Polling Places, Precinct Board Members & Notice of Election School for the Municipal Election to be held on March 7, 2006, and is asking approval of the Governing Body.

“Commissioner Renfro moved approval of the information provided for the Municipal Election to be held on March 7, 2006.”

Seconded by Commissioner Montgomery.
Motion carried unanimously.

OLD BUSINESS: None.

REPORTS: CITY MANAGER –

City Manager Aguilera stated he would like to report on the trip to Santa Fe, and indicated that he and the Mayor traveled to Santa Fe along with the County Officials including Mr. Peterson as the County Commissioner along with the rest of the County Commission.

He indicated that Mayor Barnes from Elephant Butte was there, and stated they did not have representation from Williamsburg, as they were not requesting any legislative appropriations.

City Manager Aguilera stated they met with Representative Hamilton, and Senator John Arthur Smith to talk about developments in our City.

He stated they also attended a dinner on the 23rd hosted by SCEDO, and sat at the table with the Secretary of Tourism and stated he talked with the local tourism board about doing some advertising in Mexico and tapping that two million population that is South of the border.

City Manager Aguilera stated that our board has agreed that it is a good idea however they have been looking for an avenue, and it turns out that Secretary Cerletti has connections in the tourism department in Chihuahua City.

He stated they met along with other contingencies and representatives form SCEDO with the Governor the following day, and he felt it went well and had a good reception with the Governor, and stated they chatted with him, and indicated he is very knowledgeable about what is going on in Sierra County and inside our City limits.

City Manager Aguilera indicated he is interested in extending his train project out here and out to the Spaceport. He stated they were asking for a little over $690,000 and he thinks they might get most of that.

Mayor Rainey stated it was a ritual that they go up there and talk to their representatives, and indicated they have two of the finest, John Arthur Smith and Dianne Hamilton.

He also mentioned Ms. Angie Amin who prepares their packets and indicated that she does a beautiful job on them.

City Manager Aguilera reported that they received the agreement from the NMDOT for signature by the Mayor for the 3rd Street Sidewalk Improvements.
He stated he received a letter from Charter Cable indicating a rate increase is in the works.

City Manager Aguilera reported earlier that the City had received a check for $15,000 from Mr. John McAfee for the lease agreement for the construction of a hangar at the T or C Municipal Airport.

He indicted he had a meeting with the Airport Board today and they looked at ways to increase service at the Airport, and stated that Dan Dickson compiled a list for possibilities that they can do with that money, and that it was reviewed by the board.

City Manager Aguilera stated there is computer equipment that will save the City money on a monthly basis, and explained that they are renting equipment that forecasts the weather and provides information to the pilot’s on the weather nationwide.

He stated that Dan has found out from talking with the pilot’s that if they go on the net they can get that information free, and indicated they would be switching to that and purchase a computer for $1,200, and they would save that in 6 months as opposed to paying for this other service.

City Manager Aguilera stated they are also purchasing a golf cart for him to deliver luggage, and indicated the cart also runs on 36 volts which is what airplanes run on and he will be able to give a jump to the airplanes.

He stated the golf course had this cart and they refurbished it for $500.00, and indicated they talked about getting some new furniture and doing some remodeling, and installing an awning in front, and they are getting costs for different things, and would be scheduling future board meetings to make decisions on these various items.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Black mentioned that tomorrow she would be attending an RPO Meeting, and indicated she is going to be very pleased to announce that we will have the 3rd Street Sidewalk project taken care of and she appreciates it.

Commissioner Montgomery – No report.

Commissioner Renfro – No report.

Commissioner Stevenson announced that he has been gone the past few weeks, as he had to take a much-needed vacation. He would sincerely like to thank each and everyone for the get-well cards, prayers and the best wishes.

Mayor Rainey stated it was good to have Commissioner Stevenson back.

EXECUTIVE SESSION:

"Commissioner Montgomery moved that the meeting be closed for Executive Session – Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), Pippen & York."

Seconded by Commissioner Renfro.

All responded Yes to a Roll Call Vote.
Motion carried unanimously.

OPEN MEETING: "Mayor Rainey stated that the Commission was now in Open Session."

CERTIFICATION "Commissioner Black certified that only matters pertaining to Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), were discussed in Executive Session, and no action was taken."

Seconded by Commissioner Montgomery.
Motion carried unanimously.

"Commissioner Renfro moved that they instruct the City Attorney to proceed as directed."

Seconded by Commissioner Montgomery.
Motion carried unanimously.

ADJOURNMENT: There being no further business to come before the Commission the meeting was adjourned.

APPROVAL: PASSED AND APPROVED this 14th day of February 2006, on motion duly made by Commissioner , seconded by Commissioner , and carried.

JIMMY L. RAINY MAYOR

MARY B. PENNER CITY CLERK