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 Monday, November 28, 2005 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 E. 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, and asked that they keep in their hearts and prayers Vernon R. Widner with the 3rd Special Troop Battalion was killed in Iraq on November 17th, 2005, and laid to rest here in T or C which was his hometown.

He stated it was Sierra Counties first casualty of the Iraq War, and he would hope to be our last, and the other individual is Mr. Ralph Edwards who passed away on November 16, 2005.

Mayor Rainey stated Mr. Ralph Edwards instigated and brought to life the changing of the name of Hot Springs to Truth or Consequences in 1950, and for the famous radio show Truth or Consequences, and the Truth or Consequences Fiesta’s held each year.

Commissioner Montgomery called for the Pledge of Allegiance.

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

"Commissioner Montgomery moved approval of the Agenda as presented."

Seconded by Commissioners Renfro/Black.
Motion carried unanimously.
APPROVAL OF
MINUTES: Mayor Rainey called for review and approval of the minutes of the Regular Meeting held November 14, 2005.

"Commissioner Stevenson moved approval of the minutes of the Regular Meeting held November 14, 2005, as presented."

Seconded by Commissioner Renfro.
Motion carried unanimously.

RESPONSE TO PUBLIC COMMENT:
None.

COMMENTS FROM THE PUBLIC:
Mr. Dan Lorimer came before the Commission and expressed that he is a 30-year resident of Sierra County, and indicated that he has developed a strong personal sense of what Truth or Consequences is as a facet of New Mexico.

He stated he is here to express his concern of recent rumors about Wal-Mart coming to town, and indicated it was a bad match to Truth or Consequences particularly within Wal-Marts 75 miles on either direction.

Mr. Lorimer stated he was the conservation coordinator and lobbyist for the Rio Grande Chapter of the Sierra Club, which is Sierra Clubs presence here in New Mexico.

He stated they have issues across the country with the impact of "Big Box" retailers in small towns such as Truth or Consequences, and provided them with a handout of concerns, and thanked the Commission.

BOARD & COMMITTEE REPORTS:
None.

PUBLIC HEARINGS:
None.

PRESENTATION – GERALD TRUMBULL:
Mr. Gerald Trumbull came before the Commission as a private citizen, a business owner, and a member of a newly formed organization, which is called, Informed Citizens Alliance regarding his opposition to Wal-Mart.

He indicated it would change our community and have a social impact in our community.

Ms. Catherine Lacey came before the Commission and expressed her dislike of Wal-Mart, and indicated they did not want Wal-Mart in Sierra County, and urged everybody to see the documentary about Wal-Mart.

Mr. Ted Thedford also came before the Commission to express his opposition to Wal-Mart, and indicated it is important that they make a very careful decision.

Mayor Rainey stated as a Commissioner for the City has the right to tell anyone or any group that they cannot have a business in Sierra County or Truth or Consequences.
City Attorney Rubin stated to make a point as a matter of procedure the way the agenda reads, and pointed out that this is not an action item tonight. He stated that is the way he is interpreting the matter as to what the Commissions opinions are this is not something that they are going to be voting on tonight.

Ms. Judy Waters stated she has checked out things in Alamogordo, Roswell, and in Hobbs about their Wal-Marts. She indicated in Alamogordo that Wal-Mart was doing real good, and so was their Lowe’s Grocery Store, their pharmacies, Dollar Store, and K-Mart along with the rest of the stores in town.

She stated in Roswell their Wal-Mart was doing great along with their other stores, and in Hobbs since Wal-Mart went in it did not hurt the other grocery stores.

**PROPOSED ORDINANCE —**

**COMMERCIAL VEHICLES ON RESIDENTIAL STREETS:**

City Manager Aguilera submitted a Proposed Amended Ordinance pertaining to adding a section prohibiting of certain vehicles to residential streets.

He explained Sections A & B of the Proposed Ordinance. (Complete copy attached hereto and made a part hereof.)

City Manager Aguilera stated they deleted the section having to do with the penalty as it is already addressed in the City Ordinance in the penalty section that applies to a violation of any of the City Ordinances.

He indicated the changes reflect the Commissioners and the Planning & Zoning Commission recommendations and would recommend approval.

City Attorney Rubin read the portion of the Proposed Ordinance §12-62 — Vehicular Restricted Access to Residential Streets. (Complete copy attached hereto and made a part hereof.)

“Commissioner Renfro moved adoption of the Proposed Ordinance 12-62, for publication.”

Seconded by Commissioner Black.

Motion carried unanimously.

**BID AWARD — SANITATION VEHICLE:**

City Manager Aguilera stated this item was put out to bid prior to my employment, and indicated there were 3 companies that were interested, but only one submitted the final bid offer.

He stated the bid came in at $150,885.00 with a trade in value for one of our older vehicles of $22,500.00 with a balance of $128,385.00 for a 2006 GMC TT8500.

City Manager Aguilera stated this vehicle has the same cubic yard capacity as our current trucks, however it has a much stronger compactor and can compact more trash, so it means less trips to the landfill which will save time and fuel.

He stated the recommendation by staff is that the Commission awards the bid to Trucks West of New Mexico in the amount of $128,385.00.

“Commissioner Renfro moved approval of the bid for a 2006 GMC 32 cubic yd., side loading compaction vehicle.”
Seconded by Commissioners Stevenson/Montgomery & Commissioner Black.
Motion carried unanimously.

ELECTION RESOLUTION #14-05/06 — City Manager Aguilera asked that the City Clerk address this Resolution.
ENGLISH & SPANISH FOR MUNICIPAL ELECTION: City Clerk Penner indicated this is a standard Resolution that needs to be approved by the Governing Body for the upcoming Municipal Election to be held March 7, 2006.

She stated the Resolution is in English and in Spanish, and pointed out it would be for 2 (two) Commissioners each for a four-year term, Position 1, which is currently held by Commissioner Stevenson, and Position III, which is currently held by Commissioner Black.

“Commissioner Renfro moved adoption of Resolution #14-05/06 both in English and Spanish for the Municipal Election in March 2006.”

Seconded by Commissioner Montgomery.

Commissioner Black stated she does not understand Spanish so therefore she is not qualified to make any kind of motion on that, however I do trust Mary Penner, and our City Manager that they both say the same thing.

Motion carried unanimously.

CONSIDER “CONSENT CALENDAR” — City Manager Aguilera submitted a report for routine matters and that his recommendation is that the Commission adopt the “consent calendar” item on the agenda, so that they can put those types of routine items on that calendar instead of taking individual action.

He stated in many cases for an example the DWI Program they present expenditures for approval to submit for reimbursement to the State, or for employment contract, and indicated these are routine matters that could be placed on the consent calendar without a need for discussion.

City Manager Aguilera stated there are also fiscal reports given to them on a monthly basis, and that minutes could also be placed on the consent calendar. He would suggest that the consent calendar be placed after item IV — Comments from the Public.

He stated during “approval of the agenda” if a Commissioner had a reason to pull something off the consent calendar for need of discussion that it could be discussed when it would normally come up.

City Manager Aguilera stated it does not preclude them from discussing the item it would make it a little plainer to get by some of the more routine items, and indicated if no action is required but if the Commission agrees then the City Clerk will change the format for future meetings.

Mayor Rainey stated for record keeping that they make it as a verbal vote that they will change the agenda to contain the consent items to be placed on the agenda under item IV.
Commissioner Renfro asked if they would have to change the policy regarding the agenda?

City Attorney Rubin indicated he thinks the administrative code would need to be cleaned up, I think the administrative code does contain language that basically follows our present format.

Commissioner Renfro stated she does not have a problem with it, it's just doing it the right way.

City Attorney Rubin stated it needs to be emphasized that if 1 out of 5 people wish to discuss a particular item that it should be removed from the consent calendar.

"Commissioner Renfro moved to add the consent calendar to the agenda."

Seconded by Commissioner Montgomery.
Motion carried unanimously.

City Attorney Rubin stated he would look at the Administrative Code and if they need to make the appropriate changes he will bring it back at the next meeting.

CONSIDER LEASE AGREEMENT FOR AIRPORT:

City Manager Aguilera stated this was discussed at a previous Commission meeting in closed session, and in open session the Commissioners authorized the City Manager to talk with Mr. John McAfee and his staff about a lease at the Airport.

He stated the discussions were fruitful and he feels they came up with an agreement, and indicated with this lease that they will be getting $15,000 up front at the time of signing.

City Manager Aguilera stated they will use these funds to make improvements to the pilot's lounge area, and indicated he has discussed this with Mr. Dan Dickson about coming up with ideas on how this money could be spent.

He explained they would acquire the building after 25 years unless the lease is renewed, and that if there is a renewal of the lease he included some language about adjusting the amount for inflation, so 25 years from now instead of $2,400 a year it would be more than that based on approximately the 3% per year that the CPI grows.

City Manager Aguilera stated the recommendation at this point is for approval of the lease, and that he included a map showing the location of the hangar. He stated they also believe they will be building a second similar building in the future.

He pointed out they are paying for all the work to be done including the survey to set aside the land area, and stated since they are paying for the survey it has not been done yet until they know the lease is approved, and once it is approved they will have the survey completed and bring it back to the City for their approval, and the condition under the recommendation is that the Mayor be authorized to enter into the agreement subject to that lease survey area be provided to the City.

Commissioner Montgomery asked if this has been reviewed by our City Attorney, and City Attorney Rubin stated they have discussed this and he thinks it is a good deal for the City and
focuses on paragraph 5 the termination clause, and they will note that there is no provision there for termination without a cause, but he understands that’s really for both sides interested to keep it with cause, and indicated if the lease is abandoned for 60 days that all improvements are to be owned by the City, and he thought those provisions were satisfactory to them.

Mayor Rainey stated this is completely at their expense, and in 25 years it would become property of the City of T or C.

"Commissioner Renfro moved that the lease with Mr. John McAfee for an airport hangar be approved, and authorize the Mayor to sign the lease."

Seconded by Commissioners Stevenson/Montgomery & Commissioner Black.
Motion carried unanimously.

City Manager Aguilera mentioned for the publics benefit is that Mr. McAfee is the original inventor of the McAfee Anti-Virus Software, and is a multi-millionaire, and he does not think they will have a problem collecting the $2,400.

OLD BUSINESS
GOLF COURSE PROPERTY:

City Manager Aguilera stated they previously discussed this item, and this relates to the original purchase agreement that was negotiated between Mr. Ashbaugh and the City of T or C for property to be added to the golf course to add 9 holes to the golf course.

He indicated part of that agreement originally stated that they would pay a purchase price, and in addition they would install a road from the existing road approximately where the gun range road is to Mr. Ashbaugh's property.

City Manager Aguilera stated they constructed part of that road unfortunately it was not done as per the contract agreement at the time. He stated when he came on board one of the first things that came to light was that we had paid out the money and paid Mr. Ashbaugh as per the agreement, but the property had not transferred to the City because they still had not finished the road.

He stated with additional negotiations with Mr. Ashbaugh about the location of this road they came to the conclusion that they would essentially put in a road per his specifications according to the original contract with some modifications.

City Manager Aguilera stated in exchange Mr. Ashbaugh agreed to go ahead and release the title on the property, that if they entered into a new agreement about this new road that they are going to build for him.

He indicated when he refers to build a road he means they are going to essentially scrape 20 feet wide and turn it into a gravel road bed.

City Manager Aguilera stated the agreement was fruitful with Mr. Ashbaugh, and indicated they haggled a little bit some points, of course City Attorney Rubin was instrumental in getting this together.

He stated they wrote a new agreement and he has signed it, and that the Mayor has signed it, and that they are now 99% closer to
getting the property in their hands, and stated the last thing that needs to be done is Mr. Ashbaugh has to get a new title policy for that property which he has requested and believes he will get it sometime this week.

City Manager Aguilera stated when they receive the policy both parties will send a letter to the title company to let them know they are satisfied, and everything has been done according to the agreement, and release the title to the City.

He stated they are still working on putting in the road for him as they still have that obligation, and indicated they cannot do that until they obtain approval from the State Land Commissioner for a new easement.

REPORTS:

CITY MANAGER –

City Manager Aguilera stated that Commissioner Stevenson had asked awhile back to look into the sidewalk grant that the City received. He stated they were awarded a $220,000 grant sometime ago for installation of sidewalks along the north side of 3rd Street.

He indicated the State has told him that the next step in the process is for the City to fill out a form that is required before they give them the contract for that grant.

City Manager Aguilera stated they have the forms, and that Mr. Bill Loomis from SCCOG helped him complete the paperwork. He stated they will send it back to the State tomorrow, and hoping in 2-3 weeks they will receive the contract which will have to executed by the City, and sent back to the State, so they are looking at 3 months from now for the paperwork back and forth before they can hire an engineer to do the design, and put it out to bid.

CITY ATTORNEY – No report.

COMMISSIONERS –

Commissioner Black mentioned that on Thursday, December 1st, 2005 from 9:00 A.M., until 12:00 noon will be a meeting regarding Open Government and the Public Information Act, and she encouraged everyone to attend particularly the press.

She indicated that this Friday, December 2nd, 2005 at 5:15 P.M., they would have their Annual Tree Lighting here in front of the Commission Chambers, and invited everyone for refreshments, and reported that Santa Clause would also be here.

Commissioner Black stated she attended the Library Board Meeting this evening prior to the Commission Meeting, and reported that beginning December 12, 2005 all information regarding our Public Library will be available on the internet including every book that is in the library.

She stated people will be able to check to see if a book is available, and regardless any time of the day or night you will be able to put the book on hold, and indicated this was all done with bond money.

Commissioner Black mentioned they received an invitation to
Executive
Session:

Commissioner Montgomery stated she would like to take a moment to thank all the individuals and the businesses that supported the volleyball season and the football season for the boys and girls over the last month and a half.

She stated the girls ended their season about a month ago, and they traveled to Las Vegas over the weekend for the football boys to watch them in the semi-finals for the State playoffs.

Commissioner Montgomery stated neither the boys nor the girls were successful in going to State, but indicated they will get them next year. She stated she was very impressed of the businesses downtown that supported the kids, and thanked all the businesses and individuals who attended, and pointed out that in Las Vegas there was probably well over 200 people that traveled from here to go watch them play and was very impressed.

She thanked the community for supporting the kids and indicated that basketball season starts tomorrow!

Commissioner Renfro – No report.

Commissioner Stevenson stated his report is in a form of a question, talking about Santa Clause after observing the Chief, and one reporter and one City Commissioner has anyone weight tested his lap.

Mayor Rainey reported that the National Christmas Tree arrived in DC today, and they will have the tree lighting on the 6th, and reminded everyone to watch it on TV.

He reported that on December 1st, 2005 at Geronimo Springs Museum Ralph Edwards Room there is going to be an Appreciation Remembrance for Ralph Edwards from 1:00 P.M., until 4:00 P.M.

Mayor Rainey stated there would be a guest book, and he would hope everyone will go by and sign the book from the citizens of T or C, which will be sent to the family of Ralph Edwards, and refreshments will be served.

EXECUTIVE
SESSION:

“Commissioner Montgomery moved that the meeting be closed for Executive Session – Purchase, Acquisition or Disposal of Real Property 10-15-1H(8), 1. For the Police Department, actually contemplate the purchase of property for the Police Department, 2. Pippen & York Contract, and 3. Elite Shutters Contract.”

Seconded by Commissioner Renfro.

All 5 responded to a Roll Call Vote.

Motion carried unanimously.

Mayor Rainey asked that Chief Peterson and Detective Huff be allowed to stay for Executive Session.

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 Montgomery moved that they instruct the City Manager to negotiate on the property for the Police Department."

Seconded by Commissioner Black. Motion carried unanimously.

City Attorney Rubin reported that a termination letter was sent to Pippen & York.

No action, information only.

City Manager Aguilera stated he met with Mr. Ron Wilson with Elite Shutters and suggested they wait and hear from them.

No action, information only.

ADJOURNMENT

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

APPROVAL:

PASSED AND APPROVED this 10th day of December, 2005, on motion duly made by Commissioner [Name], seconded by Commissioner [Name], and carried.

JIMMY L. RAINÉY
MAYOR

ATTEST:

MARY B. PENNER
CITY CLERK