

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
AUGUST 25, 2008

The Council of the City of Ruidoso Downs met in regular session on August 25, 2008. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Jay Smith, Museum Director to lead the Pledge of Allegiance. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Hood
Councilor Holman

Councilor Williams
Councilor Olivo

Carol Virden, City Clerk/Treasurer informed Mayor Armstrong there was a quorum.

Also present:

Carol Virden, City Clerk/Treasurer
Steve Dunigan, Planning & Zoning Director
Jay Smith, Museum Director
Alfred Ortiz, DPS Director
Terri Mosley, Finance Director
W.T. Martin Jr., City Attorney

APPROVAL OF AGENDA

Mayor Armstrong stated next item on the agenda was approval of the agenda.

Mayor Armstrong asked that Item 10 Unfinished Business discussion and consideration of approving Resolution No. 2008-15 Lincoln County Transit Joint Resolution and Joint Powers Agreement be tabled until after discussion of Item B and C of New Business and asked for approval of rest of the agenda.

Mayor Armstrong entertained a motion to approve the agenda with changes.

Councilor Olivo moved to approve agenda with changes. Seconded by Councilor Holman.

Councilor Williams said on the agenda under Unfinished Business and consideration of approving Lincoln County Transit and Joint Powers and under New Business the need for JPA that he didn't think if they made an agreement on this one that it would affect the other one. If you're talking having discussion and possible consideration for approval of the Joint Powers Agreement under Unfinished Business then under New Business it says the need for a JPA.

Carol Virden, City Clerk/Treasurer said Councilor Olivo made the main motion and can rescind his motion to reflect that Item 10 Unfinished Business Item a be tabled after the discussion of Item 13 New Business B & C.

Councilor Olivo rescinded his motion. Seconded by Councilor Williams.

Roll Call Votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Armstrong stated next item on the agenda was approval of the Consent Agenda.

Mayor Armstrong entertained a motion to approve the Consent Agenda.

Councilor Hood moved to approve the Consent Agenda. Seconded by Councilor Williams.

Councilor Williams said on page 2 of Accounts Payables on Parks & Rec 47210 General Fund-Eagle Land Surveying surveying All American Park and asked what the purpose was?

Mayor Armstrong said it was to figure out our boundaries for one thing and the owner of the property thought that we were expanding our park so we had to have it surveyed. Councilor Williams asked if it's been accomplished. He said we knew where All American Park was at and asked if we were expanding or were we looking to rescind some of the property to this owner? He asked if we knew where our boundaries were? Mayor Armstrong said we knew where our boundaries were but the owners of the adjacent property weren't sure that we knew that.

Councilor Williams said on page 3 account 44030 were repairs to a city truck. He asked if there was an accident or did it break down? Mayor Armstrong said this is our 20-yard truck that we haul material from Albuquerque. Cleatus Richards, Public Works Director said the truck broke down in the yard in Albuquerque when we were picking up cold mix and had to have it repaired. It was repaired and hauled back 22 tons. Carol Virden, City Clerk/Treasurer said because we have not received final approval on our 2008-2009 Budget we do not spend any Capital Outlay until we receive approval from DFA.

Councilor Williams said on page 4 under Local Government account 49818 said we finished our design phase on Parker Bridge. He asked if we put that out for RFP? Cleatus Richards, Public Works Director said it has been put out for bid and the bid opening is September 3rd at 2:00 here.

Councilor Williams said on page 5 account 44030 there is an item for a windshield replacement. He asked if it broke? Jay Smith, Museum Director said it was vandalized one evening and it was replaced quickly thereafter. He said there was a police report filed and the deductible with the insurance on that.

Councilor Williams said on page 6 the payment for the Debt Fund and asked if that was for the General Obligation? Terri Mosley, Finance Director said yes.

Councilor Williams said he also had a couple of questions on the Monthly Reports. He said under DPS there was a note that one of our officers was assaulted during an arrest. He asked Chief Ortiz if the officer sustained any injuries during the arrest? Chief Ortiz said no. Councilor Williams said he doesn't know if it is a typo on the page where it talks about arrests and it talks about injuries to officers but that number isn't identified as an officer assault. Councilor Williams asked that it be identified on the report. Chief Ortiz said it would not reflect on this month's report but would on the next month.

Councilor Williams said in Public Works we have two fire hydrants out of service and asked if they were in need of repair or if they were obsolete and were going to be replaced? Cleatus Richards, Public Works Director said he would have to look into that. Councilor Williams said he also wanted to know about street lights and noticed that one was taken down, actually there are three that are out. Cleatus Richards, Public Works Director said they have wiring problems with those and that the wires were burned to the base of the pole.

Councilor Williams said one more question was on the Assisted Living Center on the Public Works project. He said there's been no change in the sign and he's been on since March. He asked if that was a project that someone has been asked to do? Mayor Armstrong said he believes that is something that has been there for a long time. Steve Dunigan, Planning & Zoning director said he didn't have any new information at this time and the last conversation he had was that it was still a viable project. He said it has been long enough so he would make that call to see if they can expect to see any activity. Mayor Armstrong said the last contact they had was for the demolition of the building where it was going to be.

Councilor Williams said in the report from the Museum there was mention of two meetings that were moved to the track. He asked if that was because there wasn't a functional meeting room or if it was for another reason? Jay Smith, Museum Director said it was where they wanted to schedule it and it was questionable whether they wanted to continue at the museum or not. Councilor Williams said he wanted to mention again about the fundraiser that Jim Kofakis and Gwen McCausland were the big doers and that the staff did a really good job. He said he wanted to mention their really good work.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF AUGUST 11, 2008.

Motion was made by Councilor Hood and seconded by Councilor Williams to approve the Minutes of the Regular Meeting of August 11, 2008. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLES

Motion was made by Councilor Hood and seconded by Councilor Williams to approve Accounts Payables. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

APPROVAL OF MONTHLY REPORTS

Motion was made by Councilor Hood and seconded by Councilor Williams to approve Monthly Reports. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

PUBLIC HEARING

Mayor Armstrong stated next item on the agenda was Public Hearing to receive public input on needs and suggestions for 2010-2014 Infrastructure Capital Improvement Plan projects. He said a limit of three minutes would be allowed per person.

Bonnie Richardson asked what the city was looking at doing for capital improvement?

Carol Virden, City Clerk/Treasurer said the department heads are currently putting their lists together and will be submitting those by the following week for Wednesday. She said they are also looking at the completion of the Wastewater Treatment Plant for the JUB. She said they are also taking into consideration what Bonnie requested for a city hall and a recreation center. She said once they put together the ICIP packets they will see a lot of the Wastewater Treatment Plant for the next five years as a priority number one. She said there is also drainage for certain streets in accordance with the Comprehensive Plan and with the RFP's that were awarded in March 2008. Those projects were going to be taken into consideration as well.

Mickie Compton asked when the public has an opportunity for input for capital improvements it's every year correct? Carol Virden, City Clerk/Treasurer said that was correct. Mickie said with the assumption that the public transportation system were to continue and they would need to put in a shelter for the vehicles for protection and asked if it would be better to wait until next year for that request? Carol Virden, City Clerk/Treasurer said that would be a decision the council will have to take into consideration when seeing a draft of the ICIP at the next council meeting. She said our deadline is September 30th. There will be a draft for the council to review at the next meeting with all the department projects as well as the Wastewater Treatment Plant and they will have the opportunity to prioritize those projects.

Sharon Paul asked if the sewer lines were a part of these plans in the next five years? Cleatus Richards, Public Works Director said yes, water, sewer, streets, and public facilities were all part of this ICIP. Sharon asked how it was prioritized? She said there is a lot of Ruidoso Downs that is not on the system. She asked if we were not putting anyone new in until the treatment plant gets updated? Cleatus Richards, Public Works Director said we are still hooking in and there are people within city limits that have sewer available to be connected. Sharon asked if there was a timeline for sewer hookups? Cleatus Richards, Public Works Director said they have several areas and funding is

always the critical factor. Sharon asked where the sewer line fits in? Is it right under the treatment plant? Cleatus Richards, Public Works Director said it is part of our overall agreement with the Wastewater Treatment Plant and that is something we're going to have to address. Sharon asked if there was a timeline for certain parts of the city that were blocked out? Cleatus Richards, Public Works Director said they are working on that at this time.

Mayor Armstrong said with no further input he would close the Public Hearing.

OTHER BUSINESS (items are for discussion only-no action will be taken)

Mayor Armstrong said he would like to give an update on the flooding we have had and what the city is involved with. He said FEMA is here and we have met with them and with the state coordination, the governor and lieutenant governor. He said we have the plans that would allow us to fix our damage problems. He said FEMA will be paying 75% and the state will be paying the other portion of this we hope. There are several bridges that will be fixed by funds from FEMA and there are some other river companies he believes is NRCS. There are grants that are going to allow us to restore the river to what we think the river would be. He said they are the only one that can get into the river and have to get special permits. That should be starting pretty soon and we were working those folks on Friday to work out some timelines and how much need there is for this. He said we will have inspectors here this week and we will be going with these folks to lay our claims to what was there. We have bridges, roadways, some sewer impact that was damage to the manholes. There is some money for residential to help some of these people and there is a list that we are asking for them to sign up on. There are some requirements and we do not know how they would fit in to that. This would give our residents a real good chance of getting back to what normal was. He said there are other projects going on and that there are actually three different pieces of property that they are looking at to put in another bridge. He said he has not said much about it because when the city speaks about acquiring property it seems to skyrocket. He said we've needed an extra bridge for years and years and it used to be just a low water crossing. The bridge here was a strong bridge for a single lane crossing. The new bridge would allow for drainage into the river and it would help in our water system to have a complete circle rather than a half circle. This is the update that the City of Ruidoso Downs is doing with all of the directors. He said they are working very hard with FEMA and anyone that would listen with the funding to try to get some help.

Councilor Williams said Representative Nora Espinosa and Senator Tim Jennings sponsored Senate Bill 29 which allowed the Special Session to fund five million dollars for Otero and Lincoln County for the flood damage. It was also supported by Representative "Dub" Williams and outgoing Representative Foley. He said he wanted to publicly thank them for their support. He said the governor wanted to give us 3.6 million but they helped with getting us the additional 1.4 million.

Carol Virden, City Clerk/Treasurer said she wanted to announce to the citizens that called in and were placed on the list for the 2008 minor home repair that the staff will have a training session with Laura Linden with the New Mexico Mortgage Finance on Friday. Once we complete that training they will start from the top of the list and call the residents in and inform them and guide them of what documents they need in order to make that application.

COMMITTEE REPORTS

Mayor Armstrong stated next item on the agenda was Committee Reports.

Councilor Williams said he is on the Beautification Committee. The report was written by Judy Miller, Chairperson. The three projects this year and that was education, litter prevention, and choosing the official City flower which was initiated by our past city manager. We received a grant for \$6,000.00 from New Mexico Clean and Beautiful to accomplish this and two of the three goals were completed. We are in the process probably next spring to plant this California Desert Poppy flower. He said he doesn't know what the reaction will be to our semi-desert and mountain community but it is supposed to pop up with a little bit of moisture. We also had Judy Miller and Sebrina Lundquist attend quarterly meeting in Santa Fe to here about other issues that goes on with New Mexico Clean and Beautiful. They were commended by several communities for their presentation. They are doing a great job as well as the citizens in our community. He said it's a great place to be and live in. He said the fall cleanup will be in October and we are trying to coordinate it with Ruidoso so we don't have it on the same weekend so that we may assist each other in cleaning both communities.

Councilor Williams said he is on the Economic Development Board. The Certified Communities Initiative provides us with a contractual funding of \$5,000.00 per year for two years. We completed an application to the New Mexico Economic Development Division. The initiative encourages creating new jobs, expansion, startup activities in our community. He said he went to a Fund-Raising Workshop hosted by the New Mexico Economic Development Division in Carrizozo recently and we were commended for the way it was written and how it was presented to them. The town hall meeting that was held in July was pretty successful and a lot of the committees were there expressing their desires of what we should be looking for in our Comprehensive Master Plan. We have the second one sometime in the near future that we'll have to update and will need input from the public as well as committee members. He said it was a great effort by Paul van Gulick, Chairman and the rest of the staff and members of that board. He said he saw Carrizozo's presentation and theirs was a good presentation that they are going to turn in to the state.

Bonnie Richardson said she is chairperson of the Parks & Recreation Committee. Gary Williams said the number one concern was the line of communication between the city

and the citizens concerning projects and purchases when dealing with the park. The improvement of the ball fields in All American Park was number two. Number three was to improve the attractiveness of All American Park. Number four was turning the roadside area into a park-like setting with a fishery along the river.

Steve Dunigan said the Planning & Zoning Commission is involved in several lengthy projects and one of them was completing and approved on April 14, 2008 the update of the City of Ruidoso Downs zoning map. He said a lot of work went into that and now we are faced with a long update process of Article 10 the Zoning & Land Use Articles. That includes everything from the definitions of all the zones and what can be accomplished on the present properties, the development standards, subdivision articles, so it's a very lengthy process. He said they are holding workshops between regular meetings and will continue to do so in hopes of finishing a district at a time and they will try to put those through the approval process because otherwise this may take a long time if we have to wait until the very end. He said it takes a lot of input and they want to be right on the language. There are other articles such as Mobile Home Regulations. The committee meets as often as they can.

Wayne Williams said when he gave his report on the Lodgers' Tax Committee they had a couple of items that were bothersome to them. The Chamber Music was not in our town and when they got the brochure it said "Paid for by Lodgers of Ruidoso and Lincoln County Lodgers' Tax and others." He said they kind of just ignored the money from the Downs. The other thing was the Auxiliary and that they cancelled their event.

Councilor Williams said he knows we are getting credit for the Joan Jett concert and that they actually mentioned Ruidoso and Ruidoso Downs.

Mayor Armstrong said these were items he asked for from the boards and committees because this is something we haven't had in awhile. He said these people are out there working hard every week and doing what they can. We are being recognized in a lot of places as trying to do a good job. He said he was hoping to have this every month and sometimes you might hear the same thing and these boards and committees are very important.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Consider Awarding Bid to Tatsch Construction-Phase 1A Sludge Handling & Ultraviolet Disinfection Facilities 2008 WWTP.

Councilor Williams said there was a typo error on the Agenda Memorandum from Cleatus and it has Carol Virden identified as City Administrator. He said it really should be titled the way it should be as City Clerk/Treasurer.

Carol Virden, City Clerk/Treasurer said this is the recommendation of award for the Regional Wastewater Plant for Phase IA and this is also reviewed and recommended from the New Mexico Environment Department Construction Program manager Walter Edons.

Councilor Williams asked W.T. Martin, Jr. City Attorney what this encompasses. W.T. Martin Jr., City Attorney said this is the sludge handling at the wastewater plant and is the first stage of this process we are dealing with. He said it is critical that we have this sludge handling and ultraviolet disinfection facility built. It is the result of the plans of Molzen-Corbin had done that were previously approved that went out for bid. He said this is a very large construction company that does very large projects throughout the state and are very well thought of. This is a necessary step in the process of us handling the issues with the Wastewater Treatment Plant.

Councilor Williams said the letter they have in here is addressed to Mr. Camp of Ruidoso and they are trying to explain where exactly we are going with this. The way he reads it, it is just kind of an update of what this contract was bid out at. He read from the document: We are requesting the Village consider the above information during its review of the bid and bid documents. He said as far as we know that hasn't come about from the Village. W.T. Martin Jr., City Attorney asked Carol Virden, City Clerk/Treasurer if that had come about yet? Carol Virden, City Clerk/Treasurer said the Village of Ruidoso council meeting would be tomorrow and it may be on the agenda. She said it will be on the JUAB agenda on Friday as well.

Councilor Holman said the letter that was in their packet from the Environment Department says the Construction Industries has recommended this company. Since this state agency has recommended them it would be difficult for the Environment Department to come back and it would be critical if we had some problems as opposed to if someone else was selected so they have endorsed this company. Councilor Hood asked if this huge bill attached to this bid was our part of it, the 15%? Carol Virden, City Clerk/Treasurer said yes.

Mayor Armstrong entertained a motion to award bid to Tatsch Construction-Phase 1A Sludge Handling & Ultraviolet Disinfection facilities 2008 RWWTP.

Councilor Williams moved to award bid to Tatsch Construction-Phase 1A Sludge Handling & Ultraviolet Disinfection facilities 2008 RWWTP. Seconded by Councilor Olivo. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Discussion of Need for JPA, if any, for Lincoln County Transit Authority and Possible Alternatives to JPA as well as the

Manning or Employment of a Management Position for the Lincoln County Transit Authority and Possible Action on Both Issues.

W.T. Martin Jr., City Attorney said over the last week and since the last council meeting he has been actively involved with Mickie Compton and Maury St. John in reference to the Joint Powers Agreement. He said he did a proposed modification of the Joint Powers Agreement with the council having approved the MOU. The Joint Powers Agreement as written had some conflicts and in the MOU that had to be addressed. The major issue is a situation where the Joint Powers Agreement was allowing certain decisions to be made by that particular authority that had direct impact on the management of this Transit Authority by the City of Ruidoso Downs as fiscal agent. You would end up with this third party making decisions for which the City of Ruidoso Downs may be liable the MOU. With the proposed modification it was written so that the Joint Powers Agreement could not conflict with the MOU. This has led to further discussion and one of the issues is do we really need a Joint Powers Agreement at all or could the transit be operated by one governmental entity and the other three governmental entities provide cash to that particular entity to avoid getting into another Joint Powers Agreement. He said considering the joint board with the wastewater he was not sure we need another one of those. In speaking with Mickie Compton she said she spoke NMDOT this week about the JPA and they had some concerns themselves about the use of a JPA. This council needs to be fully informed about this project and where the money is coming from, how it is going to be used, and how it is going to be managed. All of this merits some discussion and he questions why we would need a JPA.

Councilor Hood asked Mickie Compton how she felt about a JPA? Mickie Compton said in her opinion and with direction from the NMDOT that it would not be in the best interest of Ruidoso Downs. She was told that any accountability issues must be held to the City of Ruidoso Downs since they are the one the MOA is with. She said there are three counties involved and she has spoken to the county and the village. They were glad we were checking into this because they were not comfortable with this either. She said the match money is the \$25,000 from each entity that covers our percentage of the expenses. If it's an operational expense it's \$50,000, if it's an administrative expense its 20% for the Downs for the transit system what would be used out of the \$75,000. They agreed that there are many instances where the match money is made by several government entities and usually they don't require one. Mickie Compton said the best way to handle it would be to do away with the Joint Powers Agreement, create a Transit Advisory Board and the Board would have no power. She said they would provide to the entities that made a contribution a document that says "Thank you for your match to the 5311 programs for each fiscal." In return we provide them with the service and send out a monthly statement detailing operations and expenses. Councilor Hood asked if she looked to these other entities, Ruidoso and the County, to be part of this for quite a while? Mickie Compton said yes she did.

W.T. Martin Jr., City Attorney said one of the concerns of the council and administration is to be provided with some financial data projections that is in these packets and that has raised a series of questions in a variety of areas. He suggested this council needed to know what it is getting into and what they are obligating themselves to. He said there should be a workshop between Mickie Compton, the council, and the administration as to how this is going to work.

Councilor Hood asked what the obligations were going to be for the City of Ruidoso Downs? Mickie Compton said it would be one third and if we continue each year with each entity contributing one third of the match money then the city's obligation would be one third of that. Carol Virden, City Clerk/Treasurer asked if the financial obligation for the City of Ruidoso Downs for 2009-2010 would be an increase of the \$25,000? Mickie Compton said in the last presentation to the RPO Committee she asked for quite a lot of money because it was a new start. When she went up to receive the budget award they did warn her that next year because we will not have any ridership statistics we would probably be granted the full amount. However, she said on the application she did ask for more funds but that didn't mean we were going to get it. She said on this next application they are doing 2009-2010 and she didn't ask for the radio base station because we don't need the base station. She changed the vehicle request to one van and one body on chassis like the vehicle the Senior Center has. It dropped the capital request to \$112,600 that we asked for this past year to \$85,000. The issue with that capital request is whoever makes that match keeps that capital and it would be a really good investment and it would be up the city council and Ruidoso Downs as to whether they want to include the three entities in that match or if they want to make that match alone. After four years those vehicles would become the Downs. Four years or 100,000 miles and the big one would be seven years. Carol Virden, City Clerk/Treasurer asked if there would be an increase in the funding that we've already provided of the \$25,000? Mickie Compton said if there is it would be a small amount because she did ask for money for fuel. However, she said she did plan to have professional service agreements with several entities and the way the NMDOT works if you procure a professional service agreement with private employers, for instance the hospital, and they want us to be available for transport of patients the revenues we receive from that professional service agreement goes into a transit account. That money is reported to the state but they do not take that money off the top of our revenue. It stays there to be utilized towards our match.

Councilor Holman said something that really bothers him is that the City of Ruidoso Downs will be the operational manager and that equates to the responsible party. He said that we are dealing with the federal government who has some veto power, the Department of Transportation, and two other entities. He said a workshop would be a real good idea to answer questions. Mickie Compton said the best operational situation would be for the Downs to create a department called "Transit" and they would have an

operational manager and that operational manager would keep Ruidoso Downs posted at all times on all issues. They would have to work with the Finance Director any time they wanted to purchase any items and would have to follow the procurement act and rules of the DFA. The most severe liability would be a personal injury but hopefully the vehicles would be under the department fleet and would be covered under that. Councilor Holman said that is a big concern as well as insurance for the vehicles and that there will be one if not two people that will become an employee. Mickie Compton said if she was the manager she could work off of a contract and not be an employee. The part-time on-call drivers would not get any benefits. Councilor Holman said right now we have a problem with space and actually have three of our people across the street in a facility that we had to convert to office space and they are somewhat crowded. Mickie Compton said there are a couple of similar services here in town that may be willing to share their office space since there is a line item for rent and utilities in the budget.

Councilor Hood asked if they did have a workshop with Ms. Compton would W.T. Martin Jr. be able to work his schedule to be able to come? Mr. Martin said he could. Councilor Williams asked if having a workshop would delay any of the deadlines for applications? Mickie Compton said yes. Mickie Compton said the deadline for the current application is to be signed and sent in by the 27th and has to be postmarked by the 25th. She said this budget is a preliminary process and we justify it. Then we go through the RPO and submit it again. It is not set in stone until we get the MOA that took about a year from the last time we submitted the last application.

Councilor Holman asked Mickie Compton if any of the other entities have showed interest in being the operational manager? He said he could see the county being it more than anyone else. Mickie Compton said they are waiting to see how the first year plays out and would not rule them out. She said she needs to have one of these workshops with each entity because this provides service to the entire county. Councilor Williams asked Mickie Compton if it was a typo on the checklist where it says 2007? She said it was and would change that. Councilor Williams said he was looking at the 5311 application.

Councilor Holman asked if we need that in the form of a motion to have the workshop? Carol Virden, City Clerk/Treasurer said before you do that Councilor Williams had a question about the time frame on the approval of Resolution 2008-18 for the 2009-2010 funding final. The question is how that would effect the deadline of the 27th if they have a workshop? Mickie Compton said that means we will go ahead and file the application. As we go through the process the liability issues are not enforced until the MOA actually comes in. Councilor Hood asked if that could be a year down the road? Mickie Compton said it would be in October. Carol Virden, City Clerk/Treasurer asked if that was eight to nine months? Mickie Compton said yes. Councilor Holman said if we do one more commitment like tonight then what is next on the agenda? He asked if there was a provision where we can say right at the last minute that we just don't feel good about this?

Mickie Compton said you can do that up to the day you sign the MOA and even after you've signed the MOA for the current year coming up. If we get six months into and decide it is jeopardizing the financial responsibility of Ruidoso Downs and that we just can't do it anymore our alternatives would be to go to the other entities and ask for more money. If that didn't work we would notify the state that we can't do it any longer. Councilor Holman said that was by state statute he thought. Mickie Compton said we would have to give them thirty days notice and would have to return the capital purchases that have been made.

W.T. Martin Jr., City Attorney said there are two items on the agenda, B & C, and the one that would need to be tabled would need to be 13B and if the council chooses they can go ahead and pass 13C. Mickie Compton asked if they would want the workshop strictly on the JPA or the whole deal? W.T. Martin Jr. said the whole deal. Mickie Compton said there were a lot of things to prepare for operations and didn't know how we wanted to handle that. W.T. Martin Jr. said what they would like to see is all of this in workshop where it all be discussed and conducted fairly quickly. Councilor Holman said then what we need to do immediately is item C, hire a manager, and conduct a workshop.

Mayor Armstrong entertained a motion to approve a workshop for item B.

Councilor Hood moved to approve a workshop for item B as soon as can be set by Carol Virden, City Clerk/Treasurer and W.T. Martin Jr., City Attorney. Seconded by Councilor Olivo. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Resolution No. 2008-18 Supporting the Filing of an Application to New Mexico Department of Transportation for Funding Assistance for FY 2009-2010.

Mayor Armstrong entertained a motion to approve Resolution No. 2008-18 Supporting the Filing of an Application to New Mexico Department of Transportation for Funding Assistance for FY 2009-2010.

Councilor Williams moved to approve Resolution No. 2008-18 Supporting the Filing of an Application to New Mexico Department of Transportation for Funding Assistance for FY 2009-2010. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was item 10A and entertained a motion to approve postponing Discussion and Consideration of Approving Resolution 2008-15 Lincoln County Transit Joint Resolution and Joint Powers Agreement until after the workshop.

Councilor Williams moved to approve postponing Discussion and Consideration of Approving Resolution 2008-15 Lincoln County Transit Joint Resolution and Joint Powers Agreement until after the workshop. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Mayor's Appointment of Diane Long to Beautification Committee.

Mayor Armstrong entertained a motion to approve Mayor's Appointment of Diane Long to Beautification Committee.

Councilor Williams moved to approve Mayor's Appointment of Diane Long to Beautification Committee. Seconded by Councilor Olivo.

Councilor Williams said they did receive a letter from committee on that.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Mayor's Appointment of Wayne Williams to the Economic Development Board.

Mayor Armstrong entertained a motion to approve Mayor's appointment of Wayne Williams to the Economic Development Board.

Councilor Olivo moved to approve Mayor's appointment of Wayne Williams to the Economic Development Board. Seconded by Councilor Holman. Roll call votes: Councilor Hood, Aye; Councilor Williams, Nay; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

PUBLIC INPUT

Mayor Armstrong stated next item on the agenda was Public Input with a three-minute time limit. He asked that anyone who speaks in Public Input speak for their three minutes and then we will try to answer your questions later. He said it was hard to keep up with their three minutes and wouldn't want them to lose it. If they are speaking and asking for one of the Councilors or Directors for a response then give him that time to get a response.

Joe Blaney said in regards to what they are calling the flood of 2008, did anyone ask what went wrong or what went right? He said yes, the question was asked and it was also ignored. He said let's start with the morning after. With respect to Mrs. Gustofson, if you

have no idea of what really happened then you have no reason for degrading people that did try to do something for people. He said excuse me, the citizens in need. He said on Monday morning instead of trying to help people in need with food, water, transportation out of their area who were cut off by the river's route our leaders thought it was more important to remove mud and debris from the side of the subdivision they could get to. Newborns, people on oxygen, and people with special needs, you can wait. The City should have been, if that's the only bridge with access for supplies, to them sooner. However, he said these people had to supply their own way out. Some people think this is the right thing to do but he said he didn't. The City accepted total responsibility for this area and much more when they annexed it. He said we have councilors who if asked what they do for the system can say unequivocally they contribute daily by trash pickup on their hours, delivering people and more. What do the others do? It seems it's about the will of the mayor and not the citizens. A split council is a dunzle council. He said for those of you who were not Star Trek fans a dunzle is a part that is no longer needed. He said this council in less than six months has moved this town several years back in time. He thought we had applied for new grants and most of those grants have been postponed or relinquished. He said this city does owe this group of citizens an apology with no excuses. The city's top priority should have been getting people out. There was a lot of talk about Ruidoso crossing jurisdictional boundaries to help Ruidoso Downs. He said to face it, that Ruidoso needed the bridge at Friedenbloom because their street yard was closed. The American Legion is a great and wonderful group however, we the people were once a great and powerful group, not now. They are mad because they may have to pay a bill for disposing of debris, which you and I have to pay for. They were given a clear path to dispose of any and all debris at no charge. The City would cover it. Again, he said the administration has demonstrated what is not good for the City. The Anti-Donation Clause for Personal Gain has not been thought about. He said to the mayor that at this point he would have to ask the City of Ruidoso Downs to pay for everyone's trash pick up in Ruidoso Downs.

Peggy Burton said she had two subjects and asked if that meant she had six minutes? Mayor Armstrong said she had three minutes. She asked if the rules had changed since last time? Mayor Armstrong asked if she needed three minutes for each subject? She said yes.

Peggy Burton said she would like an update on that person's department name change that was on the last council meeting agenda? Mayor Armstrong asked if that was her first question? She said yes. Mayor Armstrong asked her to go on to her next question and they would get back to answering her question. Peggy Burton said on her next question, to Councilor Williams, he had said to her that he would do some research and would get back to her. She asked if he remembered that and if he had an answer for her? Mayor Armstrong said she still had a minute and thirty-nine seconds to say something else and then they are going to answer her questions. She said she has documentation in front of

her that validates her position so she just wanted to see if that ties into what they are going to say.

Carol Virden, City Clerk/Treasurer said she the name change was not discussed with the department head with the item that Councilor Williams placed on the agenda. In other words it hasn't come before the supervisor for consideration. Peggy Burton asked what needed to be done to get that to the supervisor? Carol Virden said there were lots of things. They need to look at what her original job description was when she was hired as a utility clerk and that is her main function. She said there is a big difference between a utility clerk and a water accountant. Mayor Armstrong said that may require a change to the ordinance. Carol Virden said the utility clerk is referenced in a lot of the sections of the Water Department. That would entail the council having a Public Hearing and publishing a notice of Intent to Adopt. The Public Hearing is held depending on the decision of the council if they chose to adopt and that is another notice of Intent to Adopt. Councilor Holman said he apologized and said he had called Mrs. Burton and were going to get together but her schedule and his schedule didn't come together.

Terri Mosley, Finance Director said she did find the newsletter that was December 2007 and that Nevada Lane was scheduled for roadwork. She said that was the only thing she could find specifically for Nevada Lane. She said there had been an RFP that was awarded in March 2008 and Nevada Lane is one of the main ones specified for roadways and drainage and are working with a contractor right now that has been approved and that is in the works. Peggy Burton asked if there was a timeline for beginning work? Terri Mosley said there isn't an actual time. Peggy Burton said "but the money for that street is in the budget." Terri Mosley, Finance Director not specifically for Nevada. Peggy Burton asked where the money is that was in the budget for Nevada? Terri Mosley, Finance Director said she's never seen anything specifically for Nevada. Peggy Burton said she's kind of taking one documents missing content to another and that's where she got the premise that it was scheduled to be done in the budget and she could give them the line item or title of Street Maintenance and Repair. She said there was money left in that line item and Nevada wasn't done so she thought there should be money for that. Terri Mosley, Finance Director said that money is exactly for that. She said it is up to the department and the funding that we get to determine how much we can do. Peggy Burton said okay, it's gone out to bid, you've approved a contractor. Terri Mosley, Finance Director said no, it's an RFP and it's on-call type engineers. She said we have selected one and hopefully after today they will finalize that. The sheets will go in and they will decide what work goes first.

EXECUTIVE SESSION

Mayor Armstrong stated next item on the agenda was Executive Session: Discussion of all threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1

Subparagraph (H) 7: Wastewater Treatment Plant and Hubbard Museum of the American West: Confidential Personnel Matters.

Mayor Armstrong entertained a motion to go into Executive Session for the discussion of all threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7: Wastewater Treatment Plant and Hubbard Museum of the American West: Confidential Personnel Matters.

Councilor Williams moved to go into Executive Session for the discussion of all threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7: Wastewater Treatment Plant and Hubbard Museum of the American West: Confidential Personnel Matters. Seconded by Councilor Hood.

Roll call votes: Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong closed the regular meeting at 7:13 p.m. and invited W.T. Martin, Jr., City Attorney, Lane Martin, Carol Virden, City Clerk/Treasurer, Jay Smith, Museum Director, and Cleatus Richards, Public Works Director into the Council Chambers after a five-minute recess.

Mayor Armstrong entertained a motion to go back into open session.

Councilor Hood moved to go back into regular session. Seconded by Councilor Olivo. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong called the regular session back to order at 8:48 p.m. and asked that a member of the City Council attest to the fact that the only items discussed in Executive Session were that of Threatening and/or Pending litigation pursuant to the Open Meetings Act Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant and Hubbard Museum of the American West.

Councilor Williams attested to the fact that the only items discussed in executive sessions were that of discussion of threatened and/or pending litigation Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant and Hubbard Museum of the American West: Confidential Personnel Matters and no action was taken.

Councilor Hood moved to authorize the City of Ruidoso Downs to have W.T. Martin Jr., City Attorney to draft a letter regarding the settlement agreement between NMED, Village of Ruidoso, and the City of Ruidoso Downs Consent Decree with Forest Guardians, NPDES Permit effective 9/1/2007 through 8/31/12 and the date 8/25/08. Seconded by

Councilor Williams. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Councilor Hood moved to authorize the city attorney and city administration to take aggressive steps to protect the citizens of Ruidoso Downs in relation to compliance of the settlement of the Wastewater Treatment Plant. Seconded by Councilor Williams. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

ADJOURNMENT

Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn at 8:51 p.m. Seconded by Councilor Williams. All were in favor and motion passed.

Tom E. Armstrong, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer