

MINUTES OF THE JOINT SPECIAL MEETING  
OF THE CITY COUNCIL OF THE CITY OF RUIDOSO DOWNS;  
VILLAGE OF RUIDOSO VILLAGE COUNCILORS  
JANUARY 16, 2009  
10:00 A.M.

The Council of the City of Ruidoso Downs met in a joint session of The City Council of the City of Ruidoso Downs; Village of Ruidoso Village Councilors on January 16, 2009. Mayor Armstrong called the meeting to order at 10:00 a.m. of the City of Ruidoso Downs. 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  
Cleatus Richards, Public Works Director  
W.T. Martin Jr., City Attorney

Village of Ruidoso Councilors present:

Councilor Williams  
Councilor Rebstock

Mayor pro tem Greg Cory  
Councilor Shaw

Village of Ruidoso Mayor and Councilors not present:

Mayor Nunley  
Councilor Hardeman  
Councilor Stoddard

Others present of the Village of Ruidoso were:

Dan Higgins, Village Manager  
William P. Morris, Deputy Manager for Public Services and Community Development  
Barbara Fleming, Deputy Manager for Administration  
Bertha Polaco, Deputy Clerk  
Michael Staining, Finance Director  
Randall Camp, Public Works Director  
H. John Underwood, Legal Counsel

AGENDA:

- Discussion and possible action on recommendations for changes or amendments to the Draft Bills for Legislation regarding Municipal Supplemental Wastewater Facilities Gross Receipts Tax, amendment to Municipal Environmental Gross Receipts Tax, and creation of a Regional Water and Wastewater Authority.
- Discussion and possible action on possible amendments to the current Regional Wastewater Treatment Plant Joint Use Board Joint Powers Agreement or exploration of other avenues that would allow the creation of a separate body to own and operate the Wastewater Treatment Plant.

Mayor pro tem Greg Cory of the Village of Ruidoso stated the meeting was to discuss common concerns amongst the Governing Bodies of the Village of Ruidoso and the City of Ruidoso Downs to seek additional resolutions to the massive issues regarding the Regional Wastewater Treatment Plant.

Mayor Pro tem Greg Cory of the Village of Ruidoso introduced discussion and possible action on recommendations for changes or amendments to the Draft Bills for Legislation regarding Municipal Supplemental Wastewater Facilities Gross Receipts Tax, Amendment to Municipal Environmental Gross Receipts Tax, and creation of a Regional Water and Wastewater Authority.

H. John Underwood stated the following:

He met with the Village of Ruidoso and the City of Ruidoso Downs regarding the proposed draft Bills; was authorized by both governing bodies to take tax bill to the legislature; the amendment to the existing Environmental Gross Receipts Tax Bill was most favored and discussed with the Legislative Finance Committee (LFC) and received an endorsement from them; the Bill was drafted to allow the 1/16% to be increased and to be used solely for those issues stated in the Bill; the Bill could also be amended to be increased to a maximum or increased by a different percentage; if the Bill passed, it provided the entities the option to utilize it, but was considered a State-wide Bill: neither of the governing bodies had endorsed the Bill; this year would prove difficult for all budgets.

The second Tax Bill was not presented to the LFC, since it was merely drafted for the situation of the Village of Ruidoso defined by population. Councilor Rebstock stated Council was still waiting for figures of what the tax would be using different scenarios and how Mescalero would fit into the equation. Mayor Pro tem Cory requested different examples and figures regarding the impact of the Bills proposed. Tom Armstrong stated the Bill proposed, based on population, did not reflect the City of Ruidoso Downs.

Mayor Pro tem Greg Cory of the Village of Ruidoso introduced discussion and possible action on possible amendments to the current Regional Wastewater Treatment Plant Joint Use Board Joint Powers Agreement or exploration of other avenues that would allow the creation of a separate body to own and operate the Wastewater Treatment Plant.

H. John Underwood stated the following:

He reviewed other statutory products, such as the Solid Waste Authority and the Water and Sanitation Act and how they were drafted; the proposed Bill was considered a State Bill and only a draft that could be amended; he recommended an Authority; the Joint Powers Agreement was reviewed and could allow for participation from a Sovereign Nation; and the Native Americans were very hesitant to become part of an Authority.

W.T. Martin Jr., City Attorney for the City of Ruidoso Downs stated they had a different kind of population than the Village of Ruidoso. Mayor Pro tem Greg Cory of the Village of Ruidoso stated he reviewed the agreement with Mescalero, had private conversations, and discovered the agreement was very difficult and created differences between the municipalities and he understood the concern.

W.T. Martin Jr., City Attorney for Ruidoso Downs stated that they had to consider the disparity of its citizens; there was a consensus that something should be done to amend or get the Regional Wastewater Treatment Plant Joint Use Board to become an effective entity, which had the power to make its own decisions; an Authority had the ability to tax, set rates, and control growth; the City of Ruidoso Downs was a minority and could not implement a rate increase due to economics, but wanted to control its own growth; an increase could not be justified to the citizens of Ruidoso Downs; liens were included in the Bill; jurisdiction could be overlapped in specific areas; communication needed to improve between the Village of Ruidoso and the City of Ruidoso Downs; and the City of Ruidoso Downs consensus was that they did not want to create an Authority.

Mayor Pro tem Greg Cory of the Village of Ruidoso stated that there were many differences between the Village of Ruidoso and the City of Ruidoso Downs; communications could improve regarding the Joint Use Board; all concerns could be shared in writing; there were many unanswered questions; was not ready to eliminate the concept of an Authority altogether; and the possibility of salvaging the Joint Use Board still was being discussed. Councilors Rebstock and Shaw of the Village of Ruidoso stated they did not support an Authority.

W.T. Martin Jr., City Attorney of Ruidoso Downs suggested each municipality create a list of concerns, amendments, corrections, suggestions, etc. to be submitted with a deadline of February 1, 2009.

Mayor Pro tem Greg Cory of the Village of Ruidoso inquired if the City of Ruidoso Downs wished to become a paying customer? Councilor Dean Holman of Ruidoso Downs stated he had considered the City of Ruidoso Downs becoming a customer because he thought it would be a great thing for the City of Ruidoso Downs, but had changed his mind.

Mayor Pro tem Greg Cory of the Village of Ruidoso stated the decision of making Mescalero a partner versus a customer needed to be reviewed and discussed. Councilor Dean Holman of Ruidoso Downs stated Mescalero would be a tremendous asset as a partner and could help with potential funding. Mayor Tom Armstrong of Ruidoso Downs stated Mescalero proved challenging and would have to agree with any decisions made.

Mayor Pro tem Greg Cory of the Village of Ruidoso stated the Village of Ruidoso and the City of Ruidoso Downs were not speaking as a group since the City of Ruidoso Downs requested \$35 million for the Regional Wastewater Treatment Plant and the Village of Ruidoso requested approximately \$8 million for several things from the Legislature.

H. John Underwood stated, in the upcoming session, the City of Ruidoso Downs and the Village of Ruidoso needed consistent communications. Mr. Underwood suggested a letter be written to the Congressmen to let them know of the urgent need for infrastructure funding. Mayor Pro tem Greg Cory of the Village of Ruidoso recommended Mr. Underwood and Mr. Martin draft the letter. W.T. Martin Jr. stated the City of Ruidoso Downs would create a list of their concerns and they would submit them to each of the Village of Ruidoso Councilors. Mayor Pro tem Greg Cory of the Village of Ruidoso requested that Dan Higgins E-mail directions on how those questions and concerns were to be submitted and then schedule another meeting to discuss them. Councilor Shaw of the Village of Ruidoso urged everyone to be open-minded, honest, and constructive when establishing concerns. Councilor Holman of Ruidoso Downs stated the Joint Use Board lacked the amount of power needed to get things accomplished, but if the power was provided to an Authority, those powers could not be reversed. Councilor Rebstock of the Village of Ruidoso stated the Joint Use Board had power but the process was dysfunctional. Councilor Williams of the Village of Ruidoso stated an Authority was necessary to create the leverage to get those things accomplished that were not. Councilor Williams of Ruidoso Downs stated that the Joint Use Board existed for a long time and there was a big brother mentality from the Village of Ruidoso due to the majority of the plant usage and percentages. He said the Village of Ruidoso never seemed to take the City of Ruidoso Downs Governing Body seriously when they requested certain issues to be discussed. Mayor Tom Armstrong of Ruidoso Downs stated when the City of Ruidoso Downs addressed the treatment plant it was addressed as one sewer plant that belonged to the Village of Ruidoso and the City of Ruidoso Downs. Mayor Pro tem Greg Cory of the Village of Ruidoso stated the City of Ruidoso Downs deserved respect.

Councilor Rebstock of the Village of Ruidoso moved to direct H. John Underwood and W.T. Martin Jr. to draft a joint letter to be sent to the State Legislature, the New Mexico Municipal League, Southeastern Economic Development Group, Senators Bingaman and Udall, Congressman Teague, and President-Elect Barrack Obama to include funding request for the Regional Wastewater Treatment Plant in the Stimulus Bill for public works projects. Councilor Shaw of the Village of Ruidoso seconded and the motion carried with all ayes.

H. John Underwood requested direction regarding the Amendment to Municipal Environmental Gross Receipts Tax. Councilor Rebstock of the Village of Ruidoso moved to authorize H. John Underwood to proceed with the Amendment to Municipal Environmental Gross Receipts Tax Bill as an option. Councilor Shaw of the Village of Ruidoso seconded and the motion carried with Councilors Rebstock, Shaw, and Williams, all of the Village of Ruidoso voting aye and Mayor Pro tem Greg Cory of the Village of Ruidoso voting nay.

Councilor Williams of the Village of Ruidoso moved to authorize H. John Underwood to proceed with the creation of Regional Water and Wastewater Authority and the motion died for a lack of a second.

ADJOURNMENT

There being no further business Mayor Armstrong adjourned the special meeting at 11:40 a.m.

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Tom E. Armstrong, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer