

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
SPECIAL MEETING  
APRIL 6, 2009

The Council of the City of Ruidoso Downs met in special session on April 6, 2009. Mayor Armstrong called the meeting to order at 10:12 a.m. and asked Councilor Williams 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  
H. John Underwood, Attorney for Village of Ruidoso, JUB Advisor

APPROVAL OF AGENDA

Mayor Armstrong stated next item on the agenda was approval of the agenda with the correction of Item #5-Supporting SB 325. He said that should be SB 324.

Mayor Armstrong entertained a motion to approve the agenda with the correction of Item #5-Supporting SB 325 that should be SB 324.

Councilor Olivo moved to approve the agenda with the correction of Item #5-Supporting SB 325 that should be SB 324. Seconded by Councilor Williams.

Councilor Holman asked if there should be a statement attached to that stating something to do with a sunset clause upon completion of payment? Carol Virden, City Clerk/Treasurer said that was stated in the resolution itself. She said Mr. Underwood is going to explain how the Senate bill 324 came into place and why we need to adopt it as well.

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 to Consider Approving Resolution No. 2009-05: A Resolution Supporting SB 324, which authorizes the City of Ruidoso Downs to impose up to one-half (1/2) percent of Environmental Gross Receipts tax to finance the acquisition, construction, operation and/or maintenance of the new wastewater treatment plant.

H. John Underwood said Senate bill 324 grew out of discussion primarily with the Village of Ruidoso and also had moved to discussion with the City of Ruidoso Downs should there be a necessity in the future to help to allow either community to pay for primary construction. He said we pretty much have the acquisition paid for and the Forest Service transfer has gone through and that was good news for all of us. Now it is pretty much down to construction and he realizes that the City has covered the bonding, which is just great. He said Senator Jennings introduced this bill basically for the members of the Joint Use Board for both members. H. John Underwood said he couldn't separate out the Village of Ruidoso and the City of Ruidoso Downs in their need for Environmental Gross Receipts taxes. The important thing to remember is the neither communities has a desire to impose the gross receipts tax provided for by this bill but it allows us to have that option should we want that option some time in the future. It certainly was not mandatory but it may be something that the Village of Ruidoso uses long before the City of Ruidoso Downs does. The Village didn't impose a property tax, the imposed a service fee upon the users of the sewer system and that lessened the impact to users of the sewer system i.e.: the Wastewater Treatment Plant with the thought being because of the fact that we are both tourist-oriented communities that the gross receipts tax actually allows imposition of that burden to spread amongst a broader group of people than just either a property tax or a user fee so it gives you an option. The House and the Senate both passed this bill fairly easily. It was a very unusual situation in that it was done in accommodation to the City of Ruidoso Downs and the Village of Ruidoso because we have been up there for such a long period of time asking for money and because of the fact that this is such an extensive plant for such a small community. It was thought indeed perhaps that the Village of Ruidoso would have to impose an Environmental Gross Receipts tax and they already have a 1/16<sup>th</sup> tax imposed. This bill took the current Environmental Gross Receipts Tax Act and expanded it where it allows the communities to impose an additional 1/2 by 1/4 percent increase. The reason Ruidoso Downs was included is because both of the entities are entities of the Joint Use Board and he felt strongly and the House felt strongly that they shouldn't just do one because they are both involved. The bill doesn't say the Village of Ruidoso or the City of Ruidoso Downs; it's done by population. The definition by population excludes any other municipalities from this. He said for those of you who had the opportunity to meet with the Governor the other morning recall that his request was that it was a very unusual situation for the State to allow this to happen so his request was for him to sign this bill as quickly as was possible because it was due by Friday at noon and that both communities passed the resolution supporting the bill and the execution of the bill and also stating that they would be resolved as soon as any bond that would be generated by the use of any Gross Receipts tax imposed by virtue of this. He said he highly recommends having this Gross Receipts tax be set in place by the time these bonds were paid for. In conclusion he said in his questions he would request that the City of Ruidoso Downs approve the signing of this piece of legislation by the Governor and for the Village of Ruidoso to do the same.

Councilor Williams said we already have an Environmental, which each community has imposed. He asked if on this tax if we would have to come up with a different line item to put this tax into or would it go into the same tax structure we already have? H. John Underwood said he doesn't know how our current line item reads but if we were going to impose this  $\frac{1}{4}$ , this  $\frac{1}{2}$  by  $\frac{1}{4}$  increments it would need to be dedicated only to the Wastewater Treatment plant.

Carol Virden, City Clerk/Treasurer said the structure of the Environmental Gross Receipts tax that is now in place came in the early part of 1990 when the Lincoln County Solid Waste Authority was created by all five communities within the County of Lincoln. They had dedicated those Environmental Gross Receipts to the Lincoln County Solid Waste Authority. To propose this additional Environmental Gross Receipts tax we would not have to have a referendum, which is, we would not have to ask the voters for this. If we went that route it would be dedicated exclusively for the Wastewater Treatment plant on the wording of "acquisition, construction of, operation and/or maintenance" of the new Wastewater Treatment plant.

Councilor Holman said he understands, as the bottom line is we are spreading this out to a larger base, which would be an asset to us in this case because we do have a larger base that uses this facility in the summer when we get the visitors. H. John Underwood said it was felt that both communities were situated uniquely that both depend on tourist economy. The imposition of gross receipts tax in this situation actually helped the local citizens by spreading the web further for people to be taxed. To a large extent he has said that building the Wastewater plant is like building a church for Easter Sunday. We have built that Wastewater Treatment plant at the capacity that it's been built at, not for the 2,000 or the 8,000 but for the 25,000 or 30,000 counting on weekends to put the Wastewater Treatment plant to the test for the summer.

Councilor Williams said he had one more thing on the sunset clause and said that didn't comprehend that. He said that any kind of loan like our G.O. loan that we are required to pay back and that was 18 years as of 2006 to pay it back. He asked during that span of time if we would be authorized to use this GRT for the purpose of the Wastewater Treatment plant? And after the construction stage to use that money to keep up with the wear and tear of the plant and make sure we don't have to go out and beg for more money but encouraging other sources of income coming our way. So, this would go another 18 years for our loan to be paid off?

H. John Underwood said there are two ways to do it. One would be to replace any of the obligation that you have on property taxes replace some of the income from lowering property taxes and replace it with gross receipts tax. You would have to ask your bond

agent. More than likely what would happen is you would have a new bond issued at the time that any imposition here would be created either by refinancing the old bond and reducing your property taxes by virtue there of or by having a separate bond for the ongoing maintenance and operation. More than likely even if you throw the old bond into it, it would be a new bond.

Councilor Holman said that might be a real good option that they might want to look at. He said some of the residents say that as a result of raising the property tax to pay for that bone that we have that we have the highest taxes in Lincoln than any other municipality so that might be something you want to look at. He asked John, it says up to ½ percent so if at some point this would become a fail safe thing we could fall back on if we wanted to go there and found it necessary to do so, how would that work? It says up to then you would have up to ½ percent and if you didn't need that much going to the Wastewater Treatment plant and therefore they would be factoring a certain percent somewhere between 0 and ½ percent.

H. John Underwood said it would have to be done in ¼ increments. He said in the research he did and while he was up there and the ¼ of 1 percent for the City of Ruidoso Downs comes out to approximately \$300,000 per year.

Councilor Holman said some of the gross receipts taxes were taken away from a municipality a few years ago and then at one point we started getting reimbursed and said he didn't know if we were ever reimbursed 100 percent but he appreciated the governor, someone was thinking up there, out of the box. He said we are just getting some of the money back that we would have had. He said the governor sees our special needs and as far as prediction with the high standards on this Ruidoso River he would think that other areas in New Mexico would be falling under this same thing and that it was just a matter of time. There are other rivers being polluted also but we got singled out with the highest standards in the nation. He said it is important to let the Governor know that it is appreciated.

H. John Underwood said he thinks Taos and Angel Fire are next and that we have broken some ground. The silver lining is that our water issues may be in much better shape with this Wastewater Treatment plant because we may well be in a position in a few years to put something on the back end of that plant for water reuse. He said his conversations during the sessions with Secretary Ron Curry were all very positive and he fought very hard for us to get this money. This is money that he put in for us with the Obama stimulus money and as the Governor said he probably does have the toughest job in the State, he is the regulator. He has worked very hard with the EPA in Dallas and there is a lot to be said of that and our relationship with the Environment Department is far different today than it was ten years ago.

Councilor Williams said if the State were not in the financial difficulties that they were in last year he wondered if this would come out because of that for the funding. He asked if the State had been better financially would we have been able to seek the revenues that we would normally try to from the Governor in the legislative to fund the wastewater plant? Councilor Williams said he would like to thank him personally from the City, and realized that he was a lobbyist for the Village, but that he has done a lot for the City in past issues and has been supportive of us from the beginning. Councilor Holman said every time John has been successful for the Village he has also been successful for us. H. John Underwood said it's been a great challenge and was personally please that we were all successful.

Mayor Armstrong said he would like to thank John for all of the help he has given to the City and it's been a long hard pull but we are still pulling with him.

Councilor Hood said he appreciates him very much too.

Mayor Armstrong entertained a motion to approve Resolution No. 2009-05 as presented.

Councilor Williams moved to approve Resolution No. 2009-05 as presented. Seconded by Councilor Hood.

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

H. John Underwood asked Carol Virden for a copy of that so he could fax it to the Governor's office. She asked to come by after they adjourn and that she has the original and a copy for him

ADJOURNMENT

There being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn. Seconded by Councilor Olivo. All were in favor and motion passed.

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Tom E. Armstrong, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer