

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JULY 26, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on July 26, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Steve Dunigan to lead the Pledge of Allegiance. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Olivo
Councilor Holman

Councilor Williams
Councilor Hood

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

Also present:

Carol Virden, City Clerk/Treasurer
Steve Dunigan, Planning & Zoning Director
Cleatus Richards, Public Works Director
Terri Mosley, Finance Director
Jay Smith, Museum Director
A.C. Ortiz, Chief of Police
Zach Cook, City Attorney

APPROVAL OF AGENDA

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

Mayor Armstrong entertained a motion to approve the agenda.

Councilor Olivo moved to approve the agenda. Seconded by Councilor Williams.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, 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 Williams moved to approve the Consent Agenda. Seconded by Councilor Hood.

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

APPROVAL OF MINUTES OF SPECIAL MEETING OF JULY 07, 2010, REGULAR MEETING OF JULY 12, 2010, AND APPROVAL OF CORRECTION TO MINUTES OF REGULAR MEETING OF JUNE 28, 2010 ITEM NO. 11 PUBLIC INPUT PAGE 9.

Councilor Williams moved to approve the Minutes of Special Meeting of July 07, 2010, Regular Meeting of July 12, 2010, and Approval of Correction to Minutes of Regular Meeting of June 28, 2010 Item No. 11 Public Input Page 9. Seconded by Councilor Hood.

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

APPROVAL OF ACCOUNTS PAYABLES

Councilor Williams moved to approve Accounts Payables. Seconded by Councilor Hood.

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

APPROVAL OF MONTHLY REPORTS

Councilor Williams moved to approve Monthly Reports. Seconded by Councilor Hood.

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

COMMITTEE REPORTS

Councilor Williams moved to approve Committee Reports. Seconded by Councilor Hood.

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

PUBLIC HEARINGS

Mayor Armstrong stated next item on the agenda was Public Hearing for Ordinance No. 2010-05. An Ordinance of the Governing Body of the City of Ruidoso Downs, New Mexico Adopting the 2010 Compilation of the New Mexico Uniform Traffic Ordinance by Reference.

Mayor Armstrong opened the Public Hearing for comments and would be accepting in the following order. Interested persons must approach the podium one at a time, state their name and present their testimony. A three-minute time limit will be allowed for each person.

Mayor Armstrong asked if there were any persons present to speak in opposition of the action?

There were no persons present to speak in opposition of the action.

Mayor Armstrong asked if there were any persons present to speak in support of the action?

There were no persons present to speak in support of the action.

Mayor Armstrong said he would hereby close the Public Hearing.

Mayor Armstrong entertained a motion to adopt Ordinance No. 2010-05 2010 Compilation of the New Mexico Uniform Traffic Ordinance by Reference.

Councilor Hood moved to adopt Ordinance No. 2010-05 2010 Compilation of the New Mexico Uniform Traffic Ordinance by Reference. Seconded by Councilor Williams.

Councilor Williams asked Chief Ortiz if this was normal the way it was? He asked if this was an ordinance to ourselves or if it was the traffic ordinance? He said he didn't like some of the language in there and wanted to know if they could clean it up before approving it?

Chief Ortiz said he had not seen a copy of the ordinance being presented to them and perhaps Ms. Virden could answer that for him.

Carol Virden, City Clerk/Treasurer said the ordinance adopting the New Mexico Uniform Traffic Ordinance by Reference was drafted by the New Mexico Municipal League.

Councilor Williams said the reason he brought this up was for instance, "this ordinance as adopted shall be available for inspection in the office of the Municipal Clerk during regular and normal hours of the Municipal Clerk." He said that was redundant because when you are talking about regular and normal hours it has to be one or the other and they don't need to be referencing the Municipal Clerk twice because they already know what the statement identifies.

Carol Virden, City Clerk/Treasurer said the reason that paragraph was placed under that Section 1 Adoption by Reference was because of the 2010 New Mexico State Statute law that came into place under the legislature.

Councilor Williams said when they are going to approve a document for final approval he always likes to have the language stated succinctly.

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

Mayor Armstrong stated next item on the agenda was the City of Ruidoso Downs Final Budget Hearing for Fiscal Year 2010-2011.

Mayor Armstrong opened the Public Hearing to the audience.

Mayor Armstrong asked if there were any persons present to speak in opposition of the action?

There were no persons present to speak in opposition of the action.

Mayor Armstrong asked if there were any persons present to speak in support of the action?

There were no persons present to speak in opposition of the action.

Mayor Armstrong said he would hereby close the Public Hearing.

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was to Unfinished Business.

There was no Unfinished Business.

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

Mayor Armstrong stated next item on the agenda was Other Business and no action would be taken.

Mayor Armstrong stated next item was Other Business.

Jay Smith, Museum Director said the museum held its annual fundraiser on Saturday, July 24th. It was an extraordinarily successful event. They entertained about 280 guests with music and dancing and raffles and all kinds of other activities. They had a very nice dinner. They are still in the process of tabulating the results of the monies taken in and should have that within the week. He said he would like to give a special thank you to the entire museum staff and many of their volunteers were there to assist. Two people in particular deserve special recognition. The first being Adele Karolik who basically revolutionized the silent auction process, took control of that and made it a very flowing event. He said in the long run they will have tripled what was done last year. He said he would also like to thank the Ladies Auxiliary and the Hubbard Museum of the American West Foundation. Foremost a debt of gratitude is owed to Jim Kofakis, Special Events Coordinator and Fundraiser at the museum for doing a fantastic job. Two nights in a row he went home completely exhausted and came back the next day.

There was a round of applause for Jim Kofakis.

Mayor Armstrong said he attended and can say it was very nice and there was a lot of work put in. He said he would also like to compliment the museum staff and volunteers.

Councilor Hood said on August 7th they were going to have the annual breakfast and bake sale and silent auction. They were trying to raise money because they had their budget cut from the state. The event was going to be 7:30 to 11:30.

Cleatus Richards, Public Works Director said he wanted to bring them up to date on the Regional Wastewater Treatment Plant. Phase 1B was proceeding on the delayed schedule. He reminded them it was supposed to be completed on December 19th and that was now moved to March 10th. The original construction price was \$20,202,224 and they have had three change orders which has increased that by approximately \$400,000 making the current price \$20,600,796 which overall was less than a 2% change in the contract price. He asked them to keep in mind the 'Buy America' provision counts for quite a bit of that increase because when they bid the contract they did it on being able to provide equipment and supplies by any source. It's starting to look like a plant. If you want to go look at it you have to be checked in, get a hard hat, and be escorted through the plant because there are hazardous conditions during construction. The contractor did ask to be allowed to work Friday's. There is an inspector on the project at all times and the Joint Use Board did approve Mr. Camp and himself to approve that conditional work. It costs over \$100 an hour to have that inspector there on Friday's and that is an overtime day for them. It's very important to have an inspector on site while work is in progress. On July 21st the Joint Use Board did approve the budget for next years operation, It has increased this year around \$100,000 and the reason for that is the new plant will be operating for about a third of the year as conditional chemical and other operating costs were starting to come into play. Cleatus said next

they would have to look for possible other funding sources to help pay for the increased costs. This \$100,000 this year could be over \$300,000 next year. Even though we only pay 15% of that it's going to be a stress on the budget if our revenues don't pick up. The operating budget for next year will be \$1,600,000 and at the end of this year they are estimating almost \$1,520,000 so there will be an increase of \$80,000 so you will see a lot more in the cost of operation.

Mayor Armstrong said he would like to thank Terri Mosley, Finance Director for her part in the budget for the JUB.

Councilor Holman said there was some good input from Cleatus report. He asked if Phase 1A was complete? Cleatus said yes. Councilor Holman asked if he had an approximate cost on that and a cost to date on the Treatment Plant? Cleatus said for construction on Phase 1A it was \$7,042,000 and Phase 1B is around \$20,086,000 and that doesn't include our engineer. Councilor Holman said it sounds like they were getting up close to \$30,000,000.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was New Business-Consider Approving Resolution No. 2010-09 Final Budget Adjustment Fiscal Year 2009-2010.

Terri Mosley, Finance Direction said this was the final budget adjustments for the previous fiscal year and basically was just clean up. Most of the departments did operate below their original budget but there was a need to move money within their departments. They also needed to increase some of the projected revenues.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-09 Final Budget Adjustment Fiscal Year 2009-2010.

Councilor Olivo moved to approve Resolution No. 2010-09 Final Budget Adjustment Fiscal Year 2009-2010. Seconded by Councilor Williams.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Any Amendments to FY 2010-2011 Budget.

Terri Mosley, Finance Director said there were only a few changes to the FY 2010-2011 made from the preliminary. The estimated beginning cash balance on the recap sheet did have the encumbrances deducted from the ending cash balance for June 30, 2010. After submitting the preliminary budget DFA contacted her with an updated figure on property taxes. The final budget figure for the Fire Protection Fund, Fund 29 was \$75,495 and the preliminary budget was based off of an estimated amount so she changed that to the actual and amended both the revenues and expenditures. The changes were made for the different project budgets when she got the final numbers in June 2010. These include street improvements, FEMA and water/sewer improvements. They did meet the 1/12th reserve requirement, which is mandated by DFA, which is currently \$270,426.

Mayor Armstrong entertained a motion to approve amendments to FY 2010-2011 Budget.

Councilor Williams moved to approve amendments to FY 2010-2011 Budget. Seconded by Councilor Hood.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Resolution No. 2010-10 City of Ruidoso Downs Final Budget for fiscal year 2010-2011.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-10 City of Ruidoso Downs Final Budget for fiscal year 2010-2011.

Councilor Holman moved to approve Resolution No. 2010-10 City of Ruidoso Downs Final Budget for fiscal year 2010-2011. Seconded by Councilor Olivo.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Resolution No. 2010-11 Accepting Cooperative Agreement Control No. HW2M200290 With The New Mexico Department of Transportation (NMDOT) For Project No. SP-2-11 (971).

Cleatus Richards, Public Works Director said this was funding for another phase of the Nevada project. He said this project was not fully funded so at the end of the year they would determine how much they could do with the funds allotted and they would probably have to go into a third round to complete the project.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-2011 Accepting Cooperative Agreement Control No. HW2M200290 With The New Mexico Department of Transportation (NMDOT) For Project No. SP-2-11 (971).

Councilor Olivo moved to approve Resolution No. 2010-2011 Accepting Cooperative Agreement Control No. HW2M200290 with the New Mexico Department of Transportation (NMDOT) For Project No. SP-2-11 (971). Seconded by Councilor Holman.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Resolution No. 2010-12 Desiring To Continue Services of the Southeastern New Mexico Economic Development District/COG.

Carol Viriden, City Clerk/Treasurer said Resolution No. 2010-12 states "whereas the City of Ruidoso Downs herein and after referred to as the municipality is a member of and desires the services of the Southeastern New Mexico Economic Development District/COG. Whereas, in accordance with Article 58, Section 4-58-1 to 4-58-6 NMSA 1978, an agreement setting forth the terms and conditions of active membership of the Southeastern New Mexico Economic Development District/COG is required. And, whereas it is desire of the municipality to continue as an active member of the Southeastern New Mexico Economic Development District/COG."

Mayor Armstrong entertained a motion to approve Resolution No. 2010-12 Desiring to Continue Services of the Southeastern New Mexico Economic Development District/COG.

Councilor Hood moved to approve Resolution No. 2010-12 Desiring to Continue Services of the Southeastern New Mexico Economic Development District/COG. Seconded by Councilor Williams.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Agreement between the City of Ruidoso Downs and Southeastern New Mexico Economic Development District/COG.

Mayor Armstrong entertained a motion to approve Agreement between the City of Ruidoso Downs and Southeastern New Mexico Economic Development District/COG.

Councilor Hood moved to approve Agreement between the City of Ruidoso Downs and the Southeastern New Mexico Economic Development District/COG. Seconded by Councilor Olivo.

Councilor Williams said he was going to ask the NMDOT about the language on how it was presented to them.

Carol Virden, City Clerk/Treasurer said they were on Item 13F.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Agreement Between the City of Ruidoso Downs and the Humane Society of Lincoln County to Provide Kennel Facilities and Humane Care for Animals.

Mayor Armstrong entertained a motion to approve Agreement Between the City of Ruidoso Downs and the Humane Society of Lincoln County to Provide Kennel Facilities and Humane Care for Animals.

Councilor Olivo moved to approve Agreement Between the City of Ruidoso Downs and the Humane Society of Lincoln County to Provide Kennel Facilities and Humane Care for Animals. Seconded by Councilor Williams but said he would ask Councilor Olivo to modify his motion. Councilor Williams said he had a discussion with this lady over here some of the corrections and removal and language that needed to be cleaned up and she agreed to do it. He asked that it be included in his motion.

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

Mayor Armstrong stated next item on the agenda was Consider Awarding Bid to LDS, Inc. Jeff Harvey Construction for Storm 08 Recovery Improvement Project (Friedenbloom and Joe Welch Bridge).

Cleatus Richards, Public Works Director said this project was re-bid and was received on July 6th. He said in the agenda package was a bid tabulation showing a comparison of the bids received, what the

State provides, what FEMA provides, the City's original and City's now cost. New bids were immediately sent back to the State and FEMA and requested again that they consider increasing the bid project allowances for the two projects. They did agree to do so for the Highland Lane project. In this instance they denied the increase in both projects. The only other option here is to award and do the work at our expense and appeal the difference at a later date. He said he could not recommend not doing the bridges because those bridges had substantial flood damage and thought they were potentially putting the citizens at risk if they didn't repair those bridges. On the Friedenbloom project the actual bids received exceeded the FEMA and State allowance by \$5,676.91. Joe Welch was a \$34,329 difference between what FEMA and the State would allow. They originally thought they could repair that bridge for around \$5,000. Our own engineer disagreed with that and he fought that initially throughout the process and initially refused to sign the project orders on both of those projects because our own estimates far exceeded theirs. He said we eventually signed because we were told to sign or we got nothing. Cleatus said he knew this would be a major strain on the budget to ask for an amendment for add another \$40,000 for these projects and that was the request he was making to council to try to find additional funds to do those projects. He said he was going to pursue the appeal process they did these awards and then they could move forward.

Councilor Williams asked Terri Mosley, Finance Director if they could find \$40,000?

Terri Mosley, Finance Director said it was not in the budget that was presented tonight but they could if council decided to award these bids and make the adjustments. She said they would probably take it out of the cash balance.

Councilor Holman they couldn't afford not to do this because they were unsafe.

Councilor Hood said it was a sad situation.

Councilor Holman said the old ones were not very trustworthy and asked if what they were replacing it with was more modern and up to date?

Cleatus said FEMA would let you restore what you had there. The design they developed was cost effective and better than what they had before.

Mayor Armstrong entertained a motion to award bid to LDS, Inc. Jeff Harvey Construction for Storm 08 Recovery Improvement Project (Friedenbloom and Joe Welch Bridge).

Councilor Hood moved to approve bid to LDS, Inc. Jeff Harvey Construction for Storm 08 Recovery Improvement Project (Friedenbloom and Joe Welch Bridge).

Councilor Williams asked if they could add that this money was being funded by the City of Ruidoso Downs in lieu of possible reimbursement. Councilor Williams seconded the motion.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Amendment to the City of Ruidoso Downs Personnel Policy Manual Chapter 3 Rule 300.

Mayor Armstrong entertained a motion to approve Amendment to the City of Ruidoso Downs Personnel Policy Manual Chapter 3 Rule 300.

Councilor Olivo moved to approve Amendment to the City of Ruidoso Downs Personnel Policy Manual Chapter 3 Rule 300. Seconded by Councilor Holman.

Carol Virden, City Clerk/Treasurer said Chapter 3 titled "Employee Categories" and Rule 300 states designations of all positions within the City shall be Executive, Administrative or Classified and defined as follows. She said the request they were making from council was to correct the employee category to delete administrative and insert department head. The words department head was to make it consistent throughout the policy.

Jay Smith, Museum Director said he would like to bring to their attention something that was critical to this issue. He said he had made copies of some information from previous personnel policy manuals that he would like to hand out. He said that in these personnel policy manuals it was debated and approved back in December 2009 but there were parts that were not discussed. Parts of this can be addressed directly from looking at the personnel policy manual. Former employee categories have been reclassified as Ms. Virden pointed out. Among those positions that were reclassified were the Museum Director, Finance Director, Public Works Director, Planning & Zoning Director, and the Fire Chief. There were other positions that were reclassified as well and those include the Deputy Police Chief, the Works Foreman and Assistant Foreman, Procurement Manager, Museum Curators, Museum Gift Shop Manager, and all other positions as designated by the City Manager as having management responsibilities. He said he wanted to remind them this was the personnel policy manual approved in 2007 when there was a City Manager. He said he brought that up because the proposal before them addressed in Item "I" and "J" on the agenda the annual leave that was allotted to these positions was not discussed during the directors meeting. At the time in 2007 when this personnel policy manual was in effect the directors were "at will" employees. At that time the directors were allowed to accrue up to 600 hours of vacation. What you have before you, if you are going to approve that, you would now only be allotted up to 240 hours. He said that was never discussed during the deliberations over the personnel policy. Since it's been reclassified, and in regard to museum employees, the museum curators and gift shop manager, were under the former personnel policy were allowed to accrue up to 240 vacation hours. Now, this reclassification suggests that they could only accrue 80 hours, a full year of annual leave plus 40 as given by the new policy. He said he would assure them that it was never discussed by the directors as well. He said his point was that these were not simply language changes and they did have an extreme impact and not just on himself. He said he would be the first to disclose that after tomorrow when he left this position it could impact him as much as 27 to 30 hours. It also affects five of his employees and it was catching them completely unaware. He said were he on city council he would immediately require that they drop those two items until they could be properly discussed by the directors and administrative staff to reach a conclusion and recommendation that would fully satisfy the discussions that took place from September through December 2009. He said he would also suggest that clarification be given as to what the final payouts to employees who leave would be because it is unclear based on the policy that was being suggested that you could accrue up to a certain amount. They keep records, which tabulates much higher than those personnel policy recommendations. Jay said he believed there were three items that needed to be properly discussed before they take a vote on these.

Councilor Holman said they had an opinion out there and asked if they agreed or disagreed?

Carol Virden, City Clerk/Treasurer said to go back to Mr. Smith's comment on the maximum balance, 1215 had been in place since 2002. The only thing they were changing was "administrative" to "department head." The reason that all of the directors were involved in several meetings, and they went over every single section of the personnel policy manual. They asked for any comments, changes, and suggestions, you included.

Jay Smith, Museum Director asked for the ability to respond.

Mayor Armstrong said no.

Councilor Williams asked why they were doing away with "administrative?"

Carol Virden, City Clerk/Treasurer said the administrative, originally February 12, 2002 when the previous city council approved the Village of Ruidoso Downs personnel policy, the "administrative" were appointed positions that were to come before council every two years after an election.

Councilor Williams asked about the "executive?"

Carol Virden, City Clerk/Treasurer said the "executive" by state statute was the chief, herself, and the city manager or city administrator.

Councilor Williams asked if the department heads were classified as "administrative" because it was mentioned they were previously "at will?" He said the department heads they have listed were classified as "department heads" and would be taken out of "administrative" and "administrative" would be eliminated language wise.

Carol Virden, City Clerk/Treasurer said that was correct.

Councilor Williams asked if the heading would be "executive" or "classified" depending on what Rule 300 would be or would you have "executive", "department head", and "classified"?

Carol Virden, City Clerk/Treasurer said Rule 300 says the designation of all positions of city shall be "executive", "department head", or "classified" defined as follows:

Executive: designated appointed positions, which include-Police Chief, City Manager, City Administrator, City Attorney, City Clerk/Treasurer.

Department heads: Director of Finance/Procurement, Director of Public Works, Director of Planning & Zoning, Director of the Museum, and Fire Chief.

Classified: all other full-time positions

Councilor Williams asked if this was a contradiction on what was stated as a department head in Rule 202? He said department heads were referred to in this rule were: and it included the clerk and police chief. He asked how it would impact that rule? He asked Carol if she would consider herself a department head?

Carol Virden, City Clerk/Treasurer said yes she would to an extent.

Councilor Williams asked if it were the same for the police chief? A department head? He asked how it altered any designations here?

Carol Virden, City Clerk/Treasurer said it didn't alter any of those designations. The only thing that was clearly under Rule 300 was the fact that the city clerk, police chief, the city clerk/treasurer, city attorney, city manager and/or city administrator were at-will employees and were appointed by the mayor with concurrence by the board.

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

Carol Virden, City Clerk/Treasurer informed the mayor there was a tie vote.

Mayor Armstrong stated he would break the tie with the approval.

Mayor Armstrong stated next item on the agenda was Consider Approving Amendments to the City of Ruidoso Downs Personnel Policy Manual Chapter 12, Rule 1215.

Mayor Armstrong entertained a motion to approve amendments to the City of Ruidoso Downs Personnel Policy Manual Chapter 12, Rule 1215.

Carol Virden, City Clerk/Treasurer said the only change they were making was to remove the word from the current policy under Chapter 12-Employee Benefits, Rule 1215-Maximum Balance, to remove for "Non-Exempt Administrative Employees" and for "Exempt Administrative" to replace it with "Department Heads." If approved by council this 1215-Maximum Balance would read as follows:

Annual leave may be accrued to a maximum balance calculated as the equivalent of one year vacation accrued at the employees' current accrual rate plus 40 hours for classified employees, 240 hours for department heads, and 600 hours for executive/designated appointed positions.

Councilor Hood asked how that would affect some of the employees who had already accrued more than that? He said he knew some employees had already accrued more than that and this needed to be clarified and how this was going to affect them or were they just going to take away the rest of the hours and not do anything with it? That wouldn't be fair.

Councilor Williams said there had not been a motion and a second so there shouldn't be any discussion on the floor yet.

Councilor Holman moved to approve amendments to the City of Ruidoso Downs Personnel Policy Manual Chapter 12, Rule 1215. Seconded by Councilor Williams

Councilor Hood asked what would happen to the employees that were already over that 240 total? What would happen to those hours that were already accrued? He said everyone needed to know that. What happens now, they go back to zero? He said that wasn't fair.

Mayor Armstrong said they would need a vacation.

Councilor Hood said that wasn't fair and it wasn't their fault that they accrued more than that.

Carol Virden, City Clerk/Treasurer said they were misunderstanding what was being recommended to the council. She said all they were recommending was to remove "for Non-Exempt Administrative Employees" and replace that with "Department Heads" and the Exempt Administrative was the Department Heads.

Councilor Hood said that wasn't the way he was reading this. He said in the old records policy and procedure that they could accrue up to 600 hours.

Carol Virden, City Clerk/Treasurer said she thought at that time it was for Exempt Administrative and Executive offices.

Councilor Williams asked how many employees were affected by this change?

Carol Virden, City Clerk/Treasurer said there were four.

Councilor Williams asked if there were any city employees affected by this? Public Works people?

Carol Virden, City Clerk/Treasurer said the public works people fell under the current accrual rate for 40 hours for classified employees. She said it would be up to the Department Director/Department Head to advise and remind their employees that they were getting ready to meet maximum balance on their vacation. The Payroll/Personnel Department does put out a Bi-Weekly schedule of what each employee has accrued, what their balance is, and the personal day and whether they take it or not. She said they remind the employees at city hall but didn't know how the chief does it or if Steve does it and didn't know how Public Works or Jay at the museum did it. She said she didn't know if they even post those lists.

Councilor Williams asked if the 600 hours was for the appointed positions?

Carol Virden, City Clerk/Treasurer said that was correct.

Councilor Williams said as stated earlier Carol had said she considered herself a Department Head even though she was an appointed position as referred to in Section 202. He asked Carol how this affected her?

Carol Virden, City Clerk/Treasurer said what she said was that she could be a Department Head.

Councilor Williams said what they were trying to ensure was that any city employees out there now were not being affected by the reduction of these hours and if they were above those hours, and the Department Heads should be aware of that, how would they be compensated for or would they be grandfathered in? Would this take effect now affecting future employment? He said they were making policy changes for a policy manual that they approved and updated and that's fine but he wanted to ensure that no employees would be affected adversely by the changes that were being identified from their vacation time that was accrued.

Jim Kofakis said if they would look at the print outs that Jay handed out at Section 1215 and then look at the agenda briefing memo for tonight's meeting, if you put a period after Classified Employees on

both of those sections and read up to “at employees current accrual rate plus 40 hours for Classified employees” it doesn’t change. What’s on the agenda for tonight doesn’t affect the classified employees and their maximum balance on their annual leave. In 2007 in the handout that Jay gave out it was 120 hours and that will change tonight if you adopt it. Jay said yes it does. Jay said you will have reclassified the gift curators, the gift shop manager, he didn’t know how many employees at Public Works, and how many in the police, but it wasn’t just five employees that were affected. He said they have reclassified what was otherwise formerly administrative employees by the old definition and they have not informed those employees of any change to what the potential accrued vacation was and that included the directors.

Councilor Williams said he hoped that the directors were not over that 240-hour threshold.

Carol Virden, City Clerk/Treasurer said it might behoove the city council to table this issue until they could do some further investigation and further research.

Carol Virden, City Clerk/Treasurer said the motion made by Councilor Holman should be modified to state that they postpone until further research was made and item to be brought back to the August 9th council meeting.

Councilor Holman said directors were responsible for notifying people of their status of hours accumulated and what they can accumulate. He said in a lot of public corporations it is either you use them or you lose them and if the directors have told the employees then he didn’t see any reason to research.

Carol Virden, City Clerk/Treasurer said it would behoove the council to postpone until August 9th.

Councilor Holman said he would amend his motion to postpone until August 9th. Seconded by Councilor Hood.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Amendment to the City of Ruidoso Downs Personnel Policy Manual Chapter 12 Rule 1200 Section 1219.5 (C).

Mayor Armstrong entertained a motion to approve Amendment to the City of Ruidoso Downs Personnel Policy Manual Chapter 12 Rule 1200 Section 1219.5 (C).

Councilor Williams moved to approve Amendment to the City of Ruidoso Downs Personnel Policy Manual Chapter 12 Rule 1200 Section 1219.5 (C). Seconded by Councilor Holman.

Carol Virden, City Clerk/Treasurer said Section 1219.5 Medical Certification to Support FMLA Leave: (C) – Medical certifications shall be made on a form provided by the City for such purpose, a copy of which is attached to this policy. She said there was no form attached to this policy and what they were recommending was to have 1219.5 (C) read: Medical certifications shall be made on a form provided by the City. Forms are available from the Payroll/Personnel Department.

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

PUBLIC INPUT

(All concerns to be addressed only to the Governing Body as a Whole with a 3-minute Time Limit)

Mayor Armstrong stated next item on the agenda was Public Input.

Wayne Williams said he came down here tonight, I wasn't going to say anything, but for this council and this mayor to allow input, whether they be right or wrong, in their argument. For this mayor and this council to allow arguments from the floor or the citizens sitting out here is against all the rules. That hammer you got up there is for a reason. It's the bang, you're out of order, sit down, shut up. If you have a problem with decisions you talk to me personally or you bring it up before the meeting or in Public Input. You don't argue from the floor. You would not allow it from me. You shut me down in the past. You don't allow it from anyone else. You are wrong to allow it to come up this time and someone should have brought it to your attention such as the clerk, the attorney. Someone should have said Mr. Mayor; this gentleman is out of order, bang your gavel.

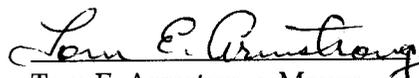
Pam Williams said she was here to remind them that they are at the beginning of the New Year for the City of Ruidoso Downs. You, the governing body had set the budget for our city. The purpose of the budget is a forecast of revenues and expenditures, a model of how the city might perform. Financially speaking in certain strategies, the biggest plans are carried out. The budget is sent in April. The actual financial operation of the city is measured against the forecast. Now that this budget is in place no adjustments should be made to the budget, no votes should be taken to adjust the budget. The city in recent years has used the budget as a financial statement and at the end of the year the budget should read exactly what it says today, what you voted on and accepted. She said she was just repeating what the accountant said during our last audit of the last few years. We have a financial statement for the cash account only and I still think we're not seeing the whole picture.

ADJOURNMENT

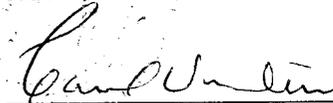
They're being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Williams moved to adjourn at 6:49 p.m. Seconded by Councilor Hood.

All were in favor and motion passed.


Tom E. Armstrong, Mayor

ATTEST:



Carol Virden, City Clerk/Treasurer