

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
OCTOBER 12, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on October 12, 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
A.C. Ortiz, Chief of Police
Jim Kofakis, Interim Museum Director
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 Williams moved to approve the agenda. Seconded by Councilor Hood.

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 Olivo.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF SEPTEMBER 27, 2010

Councilor Williams moved to approve Minutes of Regular Meeting of September 27, 2010. Seconded by Councilor Olivo.

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 Olivo.

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

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 said he had one item from Ruidoso. He said they want to have a special meeting for a sewer problem that has existed for the last two years. He said that means they have to have some type of agreement with the Village of Ruidoso and the City of Ruidoso Downs for a sewer hook up. He said what they have in front of them is this person is being cited to get hooked up on the sewer and they haven't achieved that at this time. They want to tie into our sewer line after we work out all of the details. The letters that are outside of their packets are that they are asking us to have a special meeting.

Councilor Hood asked when they want to have the meeting?

Mayor Armstrong said they want it before Friday.

Councilor Hood said that would be great because he needed to be out of town next week.

Mayor Armstrong said he would see what could be arranged but wanted to bring it before the council tonight. To them, they said it was an emergency. To us, I don't know if it is or not. We have been trying to work with them. It could be some paper articles but I don't know yet. We're looking at one residential hookup. They have been wanting to hookup twelve but we're not ready to do that yet.

Councilor Williams said the property was on Cardinal which is right up from Sears. How much of that property is on Ruidoso and how close is it to the Downs?

Mayor Armstrong said there was about 50-60 feet from our sewer manhole in the street of Cardinal or Miriam. I think in a special meeting I will listen to you all about what is an emergency type thing for us. I don't see that but they could always have it pumped out until we have our meeting on October 25th. I just wanted you all to know what's been going on because there could be some paper articles about it. It's not the Down's not trying to work with them. We are talking one and they are talking twelve. That requires something else to look at.

Councilor Holman said the person on there, are we looking at permanent hookups, temporary, or something that is somewhere in between?

Mayor Armstrong said it would be a temporary hookup until the Village of Ruidoso could have about 40-50 home hook up to the sewer at a later date. They don't have the sewer line there now and they need to try to get all of the people on the sewer line that they can. It also would allow some of the residents of the City of Ruidoso Downs to be tied on at a later date. He said our ordinance says we can't reach outside of the City and we've been having our attorney look at that and based on that we have not wanted to move forward with that. Mayor Armstrong said he was not willing to do a special meeting because that costs us money. We don't have the impact fee to cover some of these things. We've been working on this for about two months. The Public Works Department feels like there could be 24 tied on real quick. He said his opinion was that they could pump their septic tank and then wait until they have their next meeting.

Zack Cook, City Attorney said that they were working on an agreement and they would need council approval on that.

Mayor Armstrong said our ordinance says no one outside of the City and we're trying to stay with that. We are trying to help out as best we can. We probably could have done it at an earlier stage but they keep coming up with more. We haven't worked out all of the details. In my book we are only doing one and there is a way of doing a temporary. A temporary would be of a year or so or determined by the council.

Councilor Hood said it was probably going to be more than one. He said he has already heard rumors that they want to tie in twelve.

Mayor Armstrong said there was talk of twelve but Cleatus at Public Works said there could be as many as twenty-four. He said it was probably in their best interest to have it at the next council meeting when they have more information.

Councilor Hood asked if they would have to amend our ordinance in order to do anything?

Mayor Armstrong said it looks like it can be done by council.

Zach Cook, City Attorney said there is a section of the ordinance, Section 51.13, deals with connections outside of the City. He said subparagraph A refers to water and says the City won't allow extra hookups and Section B talks about sewer extension which is where we are now. It also says you can't allow outside hookups. If you skip down to Section D it essentially says all of the stuff above can be done by council approval.

Councilor Holman said they would need to know the exact number and the addresses so they would know exactly so there would be no confusion later.

Zach Cook, City Attorney said he and John Underwood have been working with the Village of Ruidoso on an agreement. They have a draft and it is only for one property. The problem is that the Village got a letter from the Environment Department. Everything was going pretty smoothly until this letter came out. The agreement will spell out what you are allowed.

Councilor Hood asked if they would need a special meeting or if it could wait until the next council meeting?

Mayor Armstrong said there was nothing that would require an emergency meeting. They need to see the wording in the agreement.

Councilor Holman asked who was going to be responsible for hooking these up?

Carol Virden, City Clerk/Treasurer said it would be their expense but they would have to follow the specifications of Ruidoso Downs.

Mayor Armstrong said we would do the inspections. We are requiring that they go to the manhole with the 4-inch line. The other issue is that they charge an impact fee and we do not. The good side of the coin is that if there is new activity with new sewer lines it will

allow some of the residents to be able to hook on to that. Both municipalities are mandated to get everyone hooked on to sewer.

Councilor Williams said there was mention of surface sewage. He asked if any of this has flowed into our City? We are talking about the health and welfare of our citizens. He said he didn't think it was our responsibility to take care of and that it was the occupant's responsibility. We can't modify our ordinances for something like this to happen one time. If they are told they need to replace their septic system then it is their responsibility. The fact is that we can't afford it and to allow one hookup will allow other citizens to say "why them?" We need to have the Village say if this stuff is flowing into the City and affecting our citizens they need to stop it somehow.

Mayor Armstrong said he thinks they could pump it out.

Councilor Williams said they said they pumped it in 2007 and at that time the tank was failing and that Ruidoso Septic was proposing to hook it up to municipal sewer. He asked Mayor Armstrong if the Village mayor had mentioned a time frame to work to get sewer up there for their long-range infrastructure needs.

Mayor Armstrong said we are only trying to fix the one situation.

Councilor Williams said he would object to a special meeting and that it should be handled through the offices of the mayors. They should come up with some dialog and information to present to them at the next council meeting.

Councilor Hood said he agrees with that.

Councilor Holman said any way we can help and cooperate with the Village we should do but at the same time there were times when they did sewer hookups and didn't ask us and didn't consider our opinion or involvement.

Mayor Armstrong asked if there was any other discussion on this?

Councilor Williams said none but he would like to announce that this Saturday they were having the fall Trek for Trash cleanup. It starts at 8:00 at the Senior Center and goes until 12:00.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Consider Approving Wastewater Treatment Plant Operating Invoice for July and August 2010.

Mayor Armstrong entertained a motion to approve Wastewater Treatment Plant Operating Invoice for July and August 2010.

Councilor Williams moved to approve Wastewater Treatment Plant Operating Invoice for July and August 2010. 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 Memorandum of Cooperative Agreement Between Counties and Municipalities Regarding PNM Claims for Cost of Fuel Adjustments and Pending Application for Rate Increase.

Mayor Armstrong said he has been meeting with other mayors in this part of the state for about three weeks and they are all in agreement that we're not against a cost but they are against them getting 26%. This agreement says that we want our PRC commission to know that we are against that high of a rate increase. If you were on a fixed income it would hurt. It hurts cities but the one good thing cities have is they charge gross receipts. This is why we all want to go in as one voice and don't want to spend money as individuals. We felt our voice would be stronger if we all went together.

Mayor Armstrong entertained a motion to approve Memorandum of Cooperative Agreement Between Counties and Municipalities Regarding PNM Claims for Cost of Fuel Adjustments and Pending Application for Rate Increase.

Councilor Holman moved to approve Memorandum of Cooperative Agreement Between Counties and Municipalities Regarding PNM Claims for Cost of Fuel Adjustments and Pending Application for Rate Increase. Seconded by Councilor Hood.

Councilor Holman said he had a problem with some things in the document. He said under the heading of "It is further agreed that." In Item 5 and some concerns to 1,2,3, & 4, have to do with resources and vague references to cost. That is what I'm concerned about. It doesn't spell out if we are going to be out money and if so how much? He said in Item 5 it says, "the party will use its resources." It doesn't say what resources. Is that money, time, personnel? Item 6 says, "on a unanimous vote the parties may delegate to appropriate persons or contractors any work associated with this project deemed appropriate." Is that going to cost the City of Ruidoso Downs any money? Item 8 says, "decisions on expenditures of the designated funds shall be by consensus." Councilor Holman said they need to be careful of what they designate or allow our delegate to get us committed to. Item 9 says "the method and amount of initial funding" doesn't spell that out and it doesn't give the amount. Item 9 says "and may be increased." He said things are pretty vague and open-ended and didn't think we have the money to put into

something when we don't know how much and where it's going. Item 2 says, "each member shall delegate a representative and one alternate who shall have authority to vote in the name of that member." So, the delegate that you send could get us obligated to certain monies to contribute and I would assume would be out of the General Fund. He said we would want to be really careful of the delegate we send. He said it mentions in here that one of the reasons for this organization is that PNM has a lot of money, time, and effort in this. Councilor Holman said they need to find out the specifics of what they are talking about. He said if they have a professional and if it is our attorney would he be able to do that and would this come under part of our contract and not be extra money paid out? If not he said he would like to remind them that John Underwood said he would be our lobbyist and that he would do a lot of this at no charge. Councilor Holman said he thinks they should table this until they can find out the specifics and then go from there.

Councilor Hood said he agrees and that PNM has suggested a very big increase and in the last quarter they showed a huge profit.

Councilor Holman said they need to factor this in.

Councilor Williams said Item 14 says "the language of any member who independently negotiates with PNM for local rate accommodations." He said isn't the whole point of this group to work together to share if there is any rates that are identified that are in line with each community. You are saying that each community they can negotiate their own rate. This group is stated as not independent. That language is superficial and needs to be addressed. Another one says, "the meetings of the LGAG shall not be considered public meetings subject to the Open Meetings Act and the records are not public records." If you look at the Open Meetings Act the only reason you wouldn't have an open meeting is you have a closed meeting or executive session. I don't see this happening and this group not have an open meeting. That should throw this whole thing in disarray according with the financing part of it that we are unaware of and the open meetings.

Councilor Holman asked how can you use public money and then say this is a closed meeting? I don't see that they can do this.

Mayor Armstrong said he could see that there are a lot of questions that have come up. There is not an emergency to sign this right away. These are good point.

Councilor Williams said if the mayor was going to have his meeting with this on Thursday he would like to ask Councilor Holman to amend his motion to postpone the discussion and agreement on this until we have more information. He said probably the next meeting would be the time they would have more information on this.

Councilor Holman amended his motion to postponing until the October 25th council meeting when they have more information. Seconded by Councilor Hood.

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

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 didn't know how many folks had dealings with PNM but I have. As a union rep I have won a case against them with the National Regulations Board. I filed a hundred grievances at least and I also filed one through a federal arbitrator. All of them we won except for some of the grievances. I did it set on contract negotiations. If you guys decide to do this you need to realize that PNM is not a dummy. They go bear hunting and go with loaded guns and they always ask you twice that they are willing to settle for. If they are asking 26 they are willing to settle for 12 or 14 and it will actually go below that. They got their ducks in a row and if you're not educated to how they do business they put the hammer on you pretty heavy. I lost a bunch of grievances with them and a bunch of contract negotiations before I learned. You better go down armed with everything you need to beat them or you will lose. That's just how they operate. They will buy votes. They will approach your PRC people. They will do whatever it takes to wrap them into voting their way. PNM gets what they want and if they get a rate increase they increase their holdings. The reason they are asking for it right now is that when they bought Texas Power it also included Texas which is unregulated which means that price over there goes up and down and up and down and they can't control it. Here they get 'x' amount of dollars per kilowatt-hour. They are having trouble keeping their paperwork straight and getting their money to where it flows easily. He said that is the reason this time for the rate increase is they can't deal with Texas. Texas is too smart right now and they aren't going to let them do it. They want them to go flat rate but Texas can buy their power from whomever they please. Here when PNM comes in and buys an area like this they don't just buy the power and the company they buy the transmission lines. They tried to kick PNM out of Albuquerque several time and said fine, just pay us for the use of the lines, we own them.

Joyce Gustafson said she wanted to say thank you to the mayor and councilors for looking at this and not jumping into signing a contract that might cost the taxpayers of Ruidoso Downs a whole lot of money and I do appreciate it.

Mayor Armstrong said every meeting they have had as Wayne said; they have come in with some big guns. We are looking into everything and that is the reason that this agreement needs to be done but it needs to be done right.

ADJOURNMENT

There being no further business, Mayor Armstrong entertained a motion for adjournment.

Councilor Williams moved to adjourn at 6:21 p.m. Seconded by Councilor Hood.

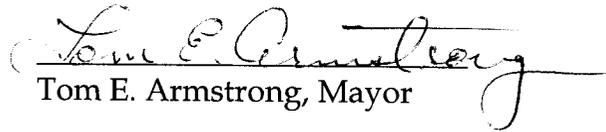
All were in favor and motion passed.



ATTEST:



Carol Virden, City Clerk/Treasurer



Tom E. Armstrong, Mayor