

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
APRIL 25, 2011  
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on April 25, 2011. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Wayne Williams 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  
Terri Mosley, Finance Director  
Steve Dunigan, Planning & Zoning Director  
Cleatus Richards, Public Works Director  
Jim Kofakis, Museum Director

Absent: H. John Underwood

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 Hood 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 and would like to pull one of the reports. Seconded by Councilor Hood.

Councilor Williams moved to approve the Consent Agenda and would like to pull one of the reports. Seconded by Councilor Hood.

Councilor Williams said he would like to pull the Economic Development report. He said he would like to make a mention that the Economic Development Board is looking for some board members. We would appreciate anybody with having any consideration for the Economic Development Board that they are in need of about two members and to please contact the mayor. We have not been able to have a meeting for the last couple of months because of no quorum.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 11, 2011.

Councilor Williams moved to approve Minutes of Regular Meeting of April 11, 2011. 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.

APPROVAL OF 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 HEARING

ORDINANCE NO. 2011-02

AN ORDINANCE AMENDING TITLE V: PUBLIC WORKS CHAPTER 50. WATER  
GENERAL PROVISION: SECTION 50.01 WATER DEPARTMENT: MAINTENANCE  
FOREPERSON, AMENDING SERVICE: CONNECTIONS SECTION 50.15 WATER SERVICE;

AMENDING SECTION 50.18 TITLED PRIVATE LINE OR PIPES (A) AMENDING SECTION 50.19 TITLED CONTROL OF EQUIPMENT: AMENDING SECTION 50.20 RATES AND CHARGES: BILLING AND COLLECTION (B) AND (C): AMENDING WATER CONSERVATION PLAN SECTION 50.51 VOLUNTARY WATER CONSERVATION MEASURES. (A) AMENDING 50.52 WATER CONSERVATION STAGES; RATIONING (A) (1) (C) (1) (2) AND (7) AND (B): AMEND SECTION 50.53 ENFORCEMENT AND AMENDING APPENDIX A: SCHEDULE OF RATES AND CHARGES (A) SECURITY DEPOSITS (B) WATER RATES (3) AND AMEND (C) CONNECTION FEES (1) AND (E) RECONNECT OR DISCONNECT FEES (1) AND (2) AMEND CHAPTER 51 SEWER DEPARTMENT: SECTION 51.06 TITLED SEWER INSPECTION AND CONSTRUCTION RELATED FEES AND CHARGES (A) AND AMEND SECTION 51.09 TITLED SEWER SERVICE CHARGES (A) MINIMUM (OR BASE) MONTHLY SEWER CHARGE TABLE BY YEAR AND (E) (F) (G) AND AMEND SECTION 51.10 SEWER BILLS (B) AND AMEND 51.16 UNLAWFUL HABITATION OF THE CITY OF RUIDOSO DOWNS CODE OR ORDINANCES.

Cleatus Richards, Public Works Director said the primary reason for the adjustments is to change and update fees and charges for services. We are also cleaning up outdated provisions and references and we are also adding some new provisions to clarify ordinance requirements. Under Chapter 50: Water – the cleanup under 50.01 Water Department, the current reference is to a maintenance foreperson and that is changed to Public Works Director because there is no maintenance foreperson. Under 50.15 Water Service, there was a reference to Agua Fria Subdivision which has been deleted because that area is now annexed to the City. Under 50.18 Private Lines or Pipes, the provision has it that all private lines and fire lines maintain and have dual check back flow devices to prevent contamination to the City water system. This is a requirement of the New Mexico Environment Department and also under the Municipal Pumping Code. Under 50.19 Control of Equipment, the provision has been added that only a licensed and permitted plumber may work on connections to the City water system and require that all customers have their own shut off system on the customers side of the meter. The recent loss of several million gallons of water from the City system and damage to private lines could have been avoided if customers had their own shut off systems and had used those during their absence. These cut offs are required under the New Mexico Plumbing Code. Under 50.20 Rates and Charges, the time for rate changes is changed from 15 days to 10 day to correspond with sewer payment time. The current ordinance has a penalty of 10% of unpaid balance and I am recommending that we reduce that back to a flat rate of \$10.00 per month to avoid accumulation of excess penalties of unpaid water and sewer bills. I am also recommending the deletion of a provision that allows property owners to escape responsibility for non-payment of water and sewer bills by tenants of rental property. We have instances where large bills by tenants have been amassed and they leave and there is no way to locate them and collect those billings. Primarily other communities that I am familiar with make it the responsibility of the property owners to make sure the bill is paid. In the future if we see a tenant billing that is exceeding the normal payment requirements that tenant will receive a billing notice as well as the property owner. Any existing agreements to that respect will be given notice that the ordinance has changed and that provision will no longer apply. We have a lot of unpaid billing on water and sewer. We're not running a charity so we

need to collect all of the fees we can so that we can make improvements and maintain the systems. Under 50.51 and 50.53 Water Conservation Plan and Enforcement Provision has been amended generally to delete reference to the City Administrator and replaced by the Mayor or Mayor's Designee. As I have mentioned in previous meetings I am working the stages and I will be bringing an amendment back at a later date to create the stage where no watering will be allowed. All stages now allow watering and if we're running into extreme shortage we need to add that other stage. In Appendix A Schedule of Rates and Charges, we are proposing an increase in Security Deposits to provide a more reasonable amount to secure payment to apply to delinquent accounts. Currently the commercial is only \$100 and we are proposing \$200. For tenants of commercial we are going from \$150 to \$200. A mobile home park is basically \$25 per lot and since there are no tenants that have meters in the mobile home parks we are deleting the provision for charges to tenants. Under residential we are recommending an increase for property from \$50 to \$75 and for tenants we are increasing that from \$75 to \$150. We are trying to maintain a deposit level that will give us better assurance of payment of billings. Under the Rate Increase Schedule the connections fees, we are recommending that all of those be changed to reflect size of meters and service. Currently we only have commercial and residential. Under commercial we have meter sizes ranging from  $\frac{3}{4}$  to occasionally 3 inches or greater. We set out a fee for each size of meter based on the cost of acquiring those meters and the time and materials required to install them. Residential is normally a  $\frac{3}{4}$  inch and currently only provides for a \$400 charge and the meter is substantially higher so we are requesting an increase to \$1,250. Under Disconnect Fees we are requesting a substantial increase particularly after hours. The current fee is \$22.50 and we are recommending an increase to \$64 and that's not even covering the overtime rate for the person to go out and make the disconnect. During the regular working hours we are also recommending an increase. This is basically a convenience to the customer and is misestimated due to the fact that they don't have their own cut off. We are recommending to people to get their own cut off so that we don't have to make these kinds of calls. Because of the freeze situation we feel very strongly that if everybody had their own cut off they could go and turn on and off their own water they would eliminate potential damage to their own property and damage to our system. It is a measure we need to pursue and enforce. Under 51.06 Sewer Department the reference has been changed from City Manager to Public Works Director for review and permitting of work on City Sewer System. In the future we are proposing that the Public Works Department make all of the sewer taps to avoid damage to our sewer system. We have a lot of clay pipe in our system and if that's not handled correctly they can do damage to the line and induce infiltration and debris into our system. We have a tap machine that was purchased some time back and for some reason the use of that equipment was stopped. We have it on hand and the bits for that tap cost about \$600 each. In the past they have loaned it out to contractors to do their own taps and after about two taps they weren't used properly and the bits ended up being destroyed. Under 51.09 Sewer Service Charges they have all been implemented. I am proposing that in the future we go to the Consumer Price Indexing to regulate future rate increasing for water and sewer. I am making that effective July 1, 2012. Tax increases on both water and sewer have ranged about 3%. The Consumer Price Index over a 10-year period comes out to a little less than that. With the increase in utilities and other products we use regularly we need to look at continual increases in our water and sewer just to keep us abreast of current prices. Under 51.09 the reference to

multi-units has been deleted because that is addressed in line 13 to minimum charge as covered in (A). We are scheduled with increases through June 30, 2011 and the increased fee of \$1.48 is proposed to remain at that rate. Under Tank Discharge the current ordinance is allowed into the sewer system but with the new Treatment Plant that cannot be allowed and hasn't been allowed by either Ruidoso or Ruidoso Downs for several years now. It creates a major slug on the plant and makes it very difficult to function properly. Under 51.10 Sewer Bills we are adding provision to allow plugging the sewer line for not paying their sewer bills where a customer is not on the City water system and establishes a fee for disconnect and reconnect of service.

Mayor Armstrong said going back to Chapter 50, Appendix A: Schedule of Rates and Charges, 8 (B) (3), he asked Cleatus Richards, Public Works Director to explain that.

Cleatus Richards, Public Works Director said all of the previous rates and 3% annually have been implemented. Starting July 1, 2012 I am proposing we go with the Consumer Price Index to establish an increase for the water.

Mayor Armstrong opened the Public Hearings and asked if there was anyone here to speak in opposition of this action?

Wayne Williams said I didn't know anything about this until I sat down and heard his explanation. What I got out of this was they are raising the cost to homeowners and property owners and a few other little changes that don't entail any cost other than just a change in the way you do things. It is my understanding that when you passed this tax increase a while back that it was supposed to take care of the Water Treatment Plant. I'm definitely opposed to doing it at this time.

Joyce Gustafson said Cleatus was saying, if I understood, and I agree we are not a charity, that people who do not pay their water bill on time in the past have paid interest on their bills if they are unpaid. Is that correct?

Carol Virden, City Clerk/Treasurer said they incur 10% penalty charge. If I had a \$250 water bill and I paid \$100 that penalty incurs and is sometimes is a larger amount than what the actual water bill is so we're trying to reduce that in order to give the customers the opportunity to pay their bill in full instead of paying a portion of it and incurring a 10% penalty on their balance.

Joyce Gustafson said so you think that charging a \$10 flat rate will encourage people to pay their water bill more frequently?

Carol Virden, City Clerk/Treasurer said the 10% on an unpaid balance just incurs, incurs, incurs. If they pay the \$10 and if they want to they can pay the \$10 from the previous month and that will leave what they didn't pay for all of their bills. Instead of 10%, 10% because it just keeps adding on, and on, and on.

Joyce Gustafson asked how long do we let these people continue going on paying or not paying \$10 or \$50 a month on a \$250 bill until we shut their water off?

Terri Mosley, Finance Director said normally it's supposed to be after two months of not paying. Some of these people come in and pay a portion of their billing and because of that the penalties have kept growing until it has become enormous so we are doing a cut off and there's going to be quite a few cut offs. We are going to give an extension until Monday. The deadline is the 25<sup>th</sup> of every month then we'll stay on top of it after that.

Joyce Gustafson said this is what my point is. Why let people's bills get outrageously high that we know they can never afford to pay the bills even at \$10 a month or interest at 10%? Do we not have ordinances to keep people from doing that?

Mayor Armstrong asked if there was anyone else to speak in opposition?

There was no one else to speak in opposition.

Mayor Armstrong asked if there were anyone here to speak in support of this action?

There was no one to speak in support of the action.

Mayor Armstrong said he would thereby close the Public Hearing.

Mayor Armstrong entertained a motion to adopt Ordinance No. 2011-02.

Councilor Williams moved to adopt Ordinance No. 2011-02. Seconded by Councilor Holman.

Councilor Williams said I am concerned about the Municipal Plumbing Code stating that a cut off valve needs to be installed between the residence home and the water meter. Is there anyone in the audience have their own cut off? So there are some residents that do have that. He asked what the time frame is for residents to have this cut off valve put in place? We're mandating it by putting it into this and under the code it says supply piping to a single-family residence and building accessory thereto may be controlled on one valve. Such shut off valve will be accessible at all times. It doesn't really state that you have to have one but it does give us the opportunity to shut it off on our end but are we looking at any time frame for mandating it?

Cleatus Richards, Public Works Director said basically it should be done on an immediate basis. They call out for a turn on or turn off we are going to advise them of the requirement and with the increased fee we are going to encourage them to do that. It would actually cost around \$100 to \$150 to install that. This is not a horrendous charge.

Councilor Williams said I understand that but you're talking to people who can't pay their water bill and then have their water turned off and you're asking them to put in a \$100 or \$150 shut off valve on top of that. Are we pushing the residents to the extreme here?

Cleatus Richards, Public Works Director said I don't think so, I think we're trying to protect our own community's water.

Councilor Williams said again I am again questioning the liability of mandating these residents and giving them a time frame to put these shut off valves in. I don't have one. There is nothing that states in here how much time we would allow the residents to do this. It doesn't specifically say that you have to it just says it's something that can be done.

Cleatus Richards, Public Works Director said yes it has to be done.

Councilor Hood said in this ordinance, the way we're wording it, we need to give the residents a time frame to get this taken care of. I think there are more people than we realize that don't have one. I have one but that doesn't mean that everyone in my neighborhood has one. I agree with Mr. Williams if people are already having a hard time paying their bill and you're going to tack another \$150 onto their bill they are going to have to get a plumber out there to do it. If the rate increase is going to go up in 2012 we've already passed on a rate increase on the Lodgers' Tax for the Wastewater Treatment Plant. I feel like we're hurting these people very much.

Councilor Williams said you have a comment in here about reducing the change for paying from 15 days to 10 days to correspond with the sewer payment time and under "Sewer" it says "Failure to pay any delinquent account in full on or before the twentieth day after billing shall be cause for the termination of water and sewer service to any such customer." So we have two different time frames that we're talking about. You want to change it from 15 to 10 for the water but yet the sewer is still sitting on or before the 20<sup>th</sup> day after the billing. So you have a discrepancy between these two. If you want to put them both in line, which if you look at your bill the water and sewer are both on the same bill so when are we going to make the payment? I got a letter from the City a month ago because I send mine out in the mail and it didn't get there by the 10<sup>th</sup> day and they told me they were going to cut off my service the next day. So, you jumped on it pretty quick but again you still have a difference between the water shut off and the sewer shut off. The increase on the fees are pretty extravagant and pretty intense if you're talking about connection fees for commercial taps and residential taps. You're talking about new service on ¾ inch for residential going from \$400 to \$1,250 and that's 300% more. Can we afford telling our citizens that you need to pay much more to get something done here? I realize that we need to have funding and I realize that we passed the infrastructure tax, which allows us to put money into our Water/Sewer fund.

Carol Virden, City Clerk/Treasurer the tax for the Wastewater Treatment Plant is for the operation only of the plant, nothing else, not our Water Department.

Councilor Williams said again it is still an increase. Looking back at the sewer system charges and it says effective July 1, 2010 to June 30, 2011 and it's outlined specifically for the cost of each resident and commercial, inside and outside within June 30<sup>th</sup> of this year. This is not

going to come into effect to implement all of this until July 2012, is that correct? Which still puts you a year from now to that point, correct?

Carol Virden, City Clerk/Treasurer said correct.

Councilor Williams said I am not agreeable to this and I don't like the fact that we are raising the cost for the citizens and we are mandating specifics that the citizens must do. If a citizen is attempting to pay and if you can't pay put a lien on his property. Again, that is really going over the edge. I understand we need to be more diligent about collecting our money because it's important for us to do our job but we can't afford to continue to raise taxes on our businesses and raising fees and income that we think we need to our residents through a tax system.

Councilor Holman said we came up with some comments and questions. I'm trying to remember, Carol, isn't it state law that the Water/Sewer fund, and I don't remember the term that I've heard you all use, but doesn't it have to be self-supporting? It cannot be in debt?

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

Councilor Holman said okay, we're looking at a situation where we have to by state law then from what we just heard, be sure that we can cover these expenses. He said he was trying to remember Councilor Hood and Wayne Williams too the taxes they are referring to are you not referring to the Business Retention Tax that was nothing to do with Water or Sewer but the topic was to keep the racetrack here. That was the last tax increase I can remember here.

Councilor Hood said I'm not mentioning anything about the tax for the racetrack. We passed that ordinance for the gross receipts tax for the Wastewater Treatment Plant and that's what I was referring to. If these rate increases go into effect in 2012 then we are going to have more people not paying their bills. That's where we are headed because everything else has gone up. I understand the water and sewer has to be a self-supporting deal but we need to take a better look at this because we are going to be charging these rates for people to get out and do this. We're looking at like Mr. Williams said a while ago and some of them a 300% increase.

Councilor Holman said I can remember when Dale Graham was a city employee the first time before he was rehired, I think it was 10 years ago, that we were told that we were going to need to get our connections in between the meter and the houses. One of the problems that arises with these automatic readings Firefly things that we have on the water meters is what these people do when a water pipe breaks is they go into the meter and mess up very expensive equipment. I helped somebody get a connection not too long ago and I think a lot of people are going to want to put their own shut off on. When they came they said well Dean has already done all of the work and it will be \$60 and it wasn't that big of a deal. I imagine a lot of the people that have it connected probably have 18-year old kids that could help eliminate that and keep the cost to a minimal. As I remember by state law we have to keep fund where it breaks even. One of the things that all of us in Lincoln County have to realize is the treatment of water is no minor thing. I grew up here and back in the 1950's we didn't

think anything about water and the Rio Ruidoso River and Bonito carried a lot of water. That's no longer the case and just like gasoline we're going to have to learn that we're going to have to pay a tremendous price for water. It may get as precious as gasoline. It will help if we all train ourselves in our mind that this is no longer an inexpensive item and it's just going to keep increasing. This Wastewater Treatment Plant, we're looking at nearly a 40 million dollar situation. That was unheard of 40 years ago. These are not easy questions and not easy problems. All of us are going to have to contribute and all of us are going to have to sacrifice on this water treatment.

Councilor Olivo asked Cleatus Richards, Public Works Director if these increases requested here are comparable to cities our size?

Cleatus Richards, Public Works Director said yes they are.

Councilor Olivo said the economy here in Ruidoso Downs is kind of low and I don't think our people are going to be able to afford the increase.

Cleatus Richards, Public Works Director said the cost of a meter has increased tremendously that's why the tap fees are where they are now and we can't give away meters. That's why we have to charge for them.

Councilor Holman said I remember bringing up the issue within the last month or two that we've raised property taxes to help build that Wastewater Treatment Plant and the information I remember getting at one time, and I don't think it was hearsay because there were residents that checked with Carrizozo, they were complaining because we have the highest property taxes due to that of any place in Lincoln County. That's the reason that at the last council meeting or two that I made the statement that I as one councilor am not willing to go back to the property owners again and ask them to make up the difference for the people who did not have much money and couldn't afford some of these things. The property owners have been asked already to step up and take up some of that slack and now we're saying all of us and not just the property owners to make up this difference.

Councilor Williams said there is one question that under 51.09 Sewer Service Charges it states here that no free service shall be provided for any user public or private. The Public Works Directors has Merritt who lives up here on Cardinal, which is the issue we had before with the sewer system continues to have free sewer services provided by Ruidoso Downs. So again, if we approve this according to what we have here, because there has been no formal agreement between the Village and the City, then we are going against what we are trying to accomplish.

Councilor Holman said at one time Ruidoso greatly increased their rates and that was their solution. We were trying to avoid what we were talking about tonight. This was four or five years ago. Trying to keep the rates raised on the people that have a difficult time in the Downs. We have a pretty high percentage of people that are in the moderate to low income. We tried to address that before and keep some of these things from happening but the day of

not being concerned about water and wastewater, the fact is that those days are over and we're just going to have to sacrifice. The alternative is to not have water. I have seen billboards and there were big signs saying, "What is your house worth, without water?" It's something we are going to have to sacrifice.

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

Mayor Armstrong asked if they understand what happened there? He asked Carol Virden, City Clerk/Treasurer to explain.

Carol Virden, City Clerk/Treasurer said the ordinance before the governing body tonight needs  $\frac{3}{4}$  of the governing body not including the mayor.

Carol Virden, City Clerk/Treasurer said there needs to be a  $\frac{3}{4}$  approval or it dies.

Mayor Armstrong said the motion dies or fails.

#### PUBLIC HEARING

Mayor Armstrong stated next item on the agenda was - P & Z Case 2011-01 Rezoning and Replat from AR-1 to C-2 on Property located at 26171 US Highway 70; the Wright Tract No. 2; S1/2NW1/4 and part of the NE  $\frac{1}{4}$  and SW  $\frac{1}{4}$  of Section 30, T 11 2, R14E, N.M.P.H., Ruidoso downs, Lincoln County, New Mexico.

Mayor Armstrong said he hereby opened the Public Hearing for comments and will be accepting in the following order. Interested persons must approach the podium one at a time, state their name, and present their testimony. A limit of 3 minutes will be allowed per person.

Mayor Armstrong asked if there are any persons here to speak in opposition of the action?

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

Mayor Armstrong asked if there are any person here to speak in support of the action?

Eric Collins said I am a professional land surveyor and was here to speak for Jotene Wright and Caroline Beechie. We are looking to replat this large piece of land, which is 77 acres. It was an oversight earlier that part of the land had been used as a commercial business so when you get to the zoning on Highway 70 we are asking to create a specific tract for that district and have it zone C-2 and the rest of the land to the north remain R-1. We will do that in order to have business there and also to have the tax assessor be able to assess the property properly.

Councilor Hood asked if this property should have been zoned C-2 or was this an oversight of ours?

Eric Collins said the property in question has historically been used for commercial purposes. There is no dispute that the City has recognized it for that. Our older zoning map even called that out. What we had occurring was a lapse of use long enough that during the 2008 rezoning process AR-1 was brought all the way out to the highway. This is the appropriate way to do it.

Mayor Armstrong entertained a motion to approve P & Z Case 2011-01 Rezoning and Replat from AR-1 to C-2 on Property located at 26171 US Highway 70; the Wright Tract No. 2; S1/2NW1/4 and part of the NE ¼ and SW ¼ of Section 30, T 11 2, R14E, N.M.P.H., Ruidoso downs, Lincoln County, New Mexico.

Councilor Hood moved to approve P & Z Case 2011-01 Rezoning and Replat from AR-1 to C-2 on Property located at 26171 US Highway 70; the Wright Tract No. 2; S1/2NW1/4 and part of the NE ¼ and SW ¼ of Section 30, T 11 2, R14E, N.M.P.H., Ruidoso downs, Lincoln County, New Mexico. Seconded by Councilor Holman.

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.

Councilor Holman said he wanted to look at a conclusion of Lincoln County Solid Waste and we should probably involve Steve. I recall sometime ago the residents that are close to the old solid waste that is on 2<sup>nd</sup> Street. They were really looking forward to when that facility would be shut down. There were reasons why that process couldn't be hurried any faster than it was. There were some problems with trash blowing around. Do we have that where it is no longer an issue and are they completely out of there and were they made to adhere to all of the responsibilities they need to? I'm wondering what the status of that property will be and what are the possibilities of what could occur there?

Steve Dunigan, Planning & Zoning Director said we are going to continue to monitor and work closely with Greentree Solid Waste on this property. It's going to need periodic cleaning from the winds we've experienced. I haven't talked with Debra Ingle nor has anyone from the City had any input from her on final plans. I suspect and if that property goes up for sale it will be zoned as it is today, C-1, which allows for lighter commercial use and is not near the heavier use that Greentree has put to it. So, that will never occur and the City will never have near that type of use within the residential neighborhood. C-1 allows for all kinds of different

types of uses and a potential buyer or developer can ask for a rezone and will be something we will have to face when it comes to it. Most of the cleanup has been done to our satisfaction.

Councilor Olivo said I am a member of the Solid Waste Committee and the property is up for sale for about \$250,000 and they will be closed and will be sold as is but they will keep up with the cleanup.

Councilor Holman said that is the conclusion of one facility and had a question about the beginning of another. We had a tour of the Wastewater Treatment Plant on Friday and the plant is getting ready to open so we're looking at a beginning. I think something that is very important to address right now what the Treatment Plant just started is this situation with Mescalero being a customer of Ruidoso. The fact that Ruidoso Downs has not been involved and is an issue Mayor and you are a member of that Joint Use Board. I think we need to get on that right away and get that problem solved. Another thing that needs to be done is I would like to see every party involved, and I believe everybody in Lincoln County would appreciate every entity honoring the contract that they have fallen under for a long time, all of us just do what the contract calls for. The County, the Village, and the City. Councilor Williams wrote a Letter to the Editor and explained some things that some people weren't aware of. The other thing that comes with the Mescalero situation is the City of Ruidoso Downs being 15% owner and we do not get 15% of the customer fees. I understand that Ruidoso probably had some expenses but that does not justify not addressing the situation. Somebody had to pay for the connection. In addition to the 15% of the customer fee that we don't and have never received, and I guess I am asking Cleatus to address this somewhat, and I know water and water law becomes somewhat complicated and particularly in the state of New Mexico you have attorneys that specialize in this and some of them probably don't know the answers, but I understand there is such a thing as water credits, return to the river, return flow credit and I remember the term and I'm going to try to learn more about that in the next couple three weeks. But, if the return flow credit and we're looking at 15% ownership then somewhere along the line we should be receiving 15% of the dollars which all of this has increased because more demand on the Treatment Plant 15% again of 15% more is more and it's always going to be that way. So, therefore, the water credit that I assume Ruidoso is getting needs to be addressed on that Joint Use Board. The City of Ruidoso Downs should be getting 15% and possibly also 15% of the customer fee of these return flows to the river. I sure would like to see the Joint Use Board jump on that right away, get that out of the way and I would like all three of the entities say we are going to do the right thing and honor this contract. Now, if they have a problem with it then change it in an orderly and legal fashion otherwise go with it. Not only is there a contract but a precedent that has been adhered to for quite some time and all of a sudden precedent is getting thrown out. But, Cleatus I would like to get with you and some of the people who know about this return flow a little bit more and my understanding is that the return flow credits are a lot more valuable than money that would be involved and I would like to see us get on that right away.

Mayor Armstrong said as everyone knows we had the White Fire and we will be addressing the fire drainage problems with the BAER group tomorrow. I have been very strong-willed about that. I was here during the Cree Fire. I know what's happening. I've been told that this

fire plus the Cree fire could create more flows and we have started as a City trying to get jersey barriers and have acquired 50. The plan from the BAER will be given to us tomorrow and we will know the flows from each of the canyons and how to protect the area and we're hoping it won't be more than we can handle at this time. All that boils down to how much rainfall. I started working on that the day of the fire.

Mayor Armstrong said on another note the time frame that has been allowed for the White Fire and said there has been a question about what if it happened on the other side of the road? He said I have been involved with Otero County. They have a fire line that comes through here that feeds our Wastewater Treatment Plant, the electricity for the people down the canyon that need that electricity. They do have a 50-foot right-of-way that's on the south side of town and I did talk to the Forest Service and they do have an easement through the forest and they are checking on what that means. Do they have to have a fire line? They would help in that matter on either of the 50-foot, which I thought, was a good idea. But a simple fire line could keep the whole town from burning down. All that information will be given to me tomorrow.

Mayor Armstrong said on the JUB question we had kind of agreed not to go too far with this until we got through with the Wastewater Treatment Plant. We understand the problem and I am the chairman of it. I am the first mayor to ever be the chairman for the Wastewater Treatment Plant and I am very proud to be. We are working with this and understand what the contract is but we want to get the Wastewater Treatment Plant built because we were told if you don't work together you don't get the money. Hopefully if you ever get a chance you will take a tour.

#### NEW BUSINESS

Mayor Armstrong stated next item on the agenda was - Consider Approving Wastewater Treatment Plant Operating Invoice for March 2011.

Mayor Armstrong entertained a motion to approve Wastewater Treatment Plant Operating Invoice for March 2011.

Councilor Olivo moved to approve Wastewater Treatment Plant Operating Invoice for March 2011. Seconded by Councilor Williams.

Councilor Williams requested that the Finance Director speak on this.

Terri Mosley, Finance Director said there were some slight changes that needed to be corrected which I did but I also want to point out the loan payment for \$13,880.93 is included in this billing. It's normally billed separately and that's the reason this billing is \$34,000 but other than that it has been verified and is correct.

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 Extending Resolution No. 2011-03 Fire Restrictions.

Kenny Ellard said I would like to see this extended due to the dryness. We are in the 90 percentile and right now we are at 98 or 99. I would like to see us possibly go to Extreme Fire Danger without the Level III Restrictions until the next council meeting to see if we get any moisture so we can drop our percentage.

Councilor Holman asked if that will be in conjunction with and match what Ruidoso has?

Kenny Ellard said it is my understanding that Ruidoso will be going into Extreme tomorrow and I am not sure if they present it to their council and change levels but I was speaking with Harlan Vincent and they are going to Extreme. The only difference between Level II and Level III on our Fire Restrictions is whether you can use a gas grill or not.

Mayor Armstrong asked if the penalties are the same or are they more severe?

Kenny Ellard said I believe the penalties are the same.

Mayor Armstrong entertained a motion to extend Resolution No. 2011-03 Fire Restrictions from Very High to Extreme.

Councilor Holman moved to approve extending Resolution No. 2011-03 Fire Restrictions from Very High to Extreme. 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 Recommendation from Finance Department to Contract with National Drug Testing and Collection, low bidder.

Terri Mosley, Finance Director said I received a memo from the Payroll/Personnel Department and a requisition with pricing from Lincoln County Medical and National Drug Testing and Collection. The National Drug Testing and Collection is the low bidder and we are currently using the hospital. I am requesting your approval to contract with National Drug Testing and Collection.

Mayor Armstrong asked if it was mandated that we go with the low bidder?

Terri Mosley, Finance Director said yes. This is for all of the drug testing. National Drug testing would come in, do the testing, and after we get the test results the employee could immediately go back to work. Currently we are having to wait two to three working days and we're having to put that employee on paid leave and that is costing the City money.

Councilor Holman said he noticed the last sentence on the Background Analysis & Impact and it says we will be utilizing the Fire Department facilities for most of the collections because those restrooms have less public traffic. So, is that the intent?

Terri Mosley, Finance Director said yes because there was a problem with the tests being done here at City Hall so we are trying to get away from that.

Councilor Williams said to Terri that you talked about the normal turn around of a 3-day drug test from Lincoln County. This one here doesn't turn around. But the pre-employment and random, is that sent out?

Terri Mosley, Finance Director said it will be sent out.

Councilor Williams asked Kenny if the restrooms over there provide a sufficient amount of privacy and ability for the person being tested to be comfortable in that facility?

Kenny said yes.

Councilor Williams asked if they were going to be monitored or go in by themselves?

Terri Mosley, Finance Director said that will be up to National Drug Testing.

Councilor Williams asked if we have anything on their procedures that will tell us exactly what they intend to do?

Terri Mosley, Finance Director said there isn't in the packets right now but I'm sure they do, they have several contracts around here with several different agencies.

Councilor Williams said I would like to have a modification on that motion to include that the approval is based on the fact that we receive that information so that we understand the complexity of this. When you're talking about random testing or any other testing it's very personal and I want to make sure our people are protected from any issues that may arise.

Carol Virden, City Clerk/Treasurer said I would like to address your statement Councilor Williams. First of all we all realize that in our Personnel Policy any new hires or anyone interested in applying and are hired in the interview process have to go through the drug process. Any sensitive safety positions and that includes the majority of the City employees take a drug test even if they operate a vehicle and there is an accident they take a drug test. To answer your question, under the National Drug Testing & Collections process is and I am sure will be the same process as operating with Lincoln County Medical Center they will get the specimen and someone will be standing outside that door so that no one will go in and out with that person.

Councilor Hood asked where National Drug Testing office is?

Terri Mosley, Finance Director said they are a local vendor as far as I understand. He has contracts with Ruidoso and several other agencies around here.

Councilor Holman asked what are we adding and what are we taking away? I guess I'm asking Councilor Williams what part of this are we going to change or modify?

Councilor Williams said I withdraw that.

Mayor Armstrong entertained a motion to approve recommendation from Finance Department to contract with National Drug Testing and Collection, low bidder.

Councilor Williams moved to approve recommendation from Finance Department to contract with National Drug Testing and Collection, low bidder. 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 Request - Use of All American Park - May 22, 2011 - Tribute to Firefighters, Police Officers and First Responders "White Fire" Joline Whitaker.

Joline Whitaker said I am proposing we throw a barbeque to say thank you to all of those that responded to the White Fire. We wanted to use All American Park and use volunteers.

Mayor Armstrong asked and the cleanup of the park?

Joline Whitaker said that would be done by volunteers.

Mayor Armstrong said you are requesting the use of the park and the canopy that we have. Generally do the rest of the councilors know if we charge for that?

Joline Whitaker said they would need it from 11:00 to 2:00.

Mayor Armstrong entertained a motion to approve Request - Use of All American Park - May 22, 2011 - Tribute to Firefighters, Police Officers and First Responders "White Fire" Joline Whitaker.

Councilor Hood moved to approve Request - Use of All American Park - May 22, 2011 - Tribute to Firefighters, Police Officers and First Responders "White Fire" Joline Whitaker. Seconded by Councilor Olivo.

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.

Pam Williams asked if the governing body was ever going to let the citizens know what happened with the firing of Chief Ortiz or are you just going to sweep it under the rug or are you going to tell us that there is more going on or do we have to be here every time and ask for information or what's going to happen? I just want an answer from the governing body whether this is just swept under the rug or are you going to do something about it or let us know what you're doing about it. You know, if it's going to the District Attorney then I feel we have a right to know that and if it's not, it's over and he was fired and no questions asked then tell us that. I feel like we deserve an answer.

ADJOURNMENT

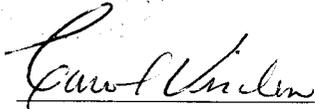
There being no further business, Mayor Armstrong entertained a motion for adjournment.

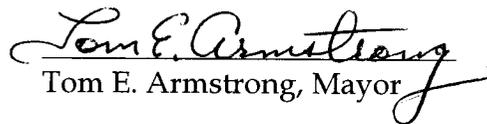
Councilor Hood moved to adjourn at 6:57 p.m. Seconded by Councilor Olivo.

All were in favor and motion passed.



ATTEST:

  
\_\_\_\_\_  
Carol Virden, City Clerk/Treasurer

  
Tom E. Armstrong, Mayor