

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
MAY 14, 2012
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on May 14, 2012. Mayor Williams called the meeting to order at 5:30 p.m. and asked Sharon Paul to lead the Pledge of Allegiance. Mayor Williams asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Holman
Councilor Miller

Councilor Hood
Councilor Perry

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

Also present:

Carol Virden, City Clerk/Treasurer
H. John Underwood, City Attorney

APPROVAL OF AGENDA

Mayor Williams stated next item on the agenda was Approval of Agenda.

Mayor Williams entertained a motion to approve the agenda.

Councilor Miller moved to approve the agenda. Seconded by Councilor Hood.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Williams stated next item on the agenda was approval of the Consent Agenda.

Mayor Williams entertained a motion to approve the Consent Agenda.

Councilor Hood moved to approve the Consent Agenda. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 23, 2012.

Councilor Hood moved to approve the Minutes of the Special Meeting of April 23, 2012. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLE

Councilor Hood moved to approve Accounts Payable. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

UNFINISHED BUSINESS

There was no Unfinished Business.

PUBLIC HEARING: ORDINANCE NO. 2012-02

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF RUIDOSO DOWNS, NEW MEXICO ADOPTING THE NEW MEXICO UNIFORM TRAFFIC ORDINANCE 2010 COMPILATION AMENDMENT BY REFERENCE.

12-8-5 RIDING ON STREETS AND BICYCLES PATHS.

~~[C. Whenever a usable path for bicycles has been provided adjacent to a street, bicycle riders shall use such path and shall not use the streets.]~~

Mayor Williams said what they were doing was striking a portion of the ordinance that doesn't have any bearing.

Mayor Williams said he would open the Public Hearing and if there was anyone who wanted to speak in opposition to come up, state their name and give their reason.

There was no one to speak in opposition.

Mayor Williams said if there was anyone who wanted to speak in support to come up, state their name and give their reason.

There was no one to speak in support.

Mayor Williams closed the Public Hearing.

NEW BUSINESS

Mayor Williams stated the next item on the agenda was - Mayor's Comments. He said it is always a pleasure to recognize employees that have stood out in the performance of their job, duties, and responsibilities. The nominee selected is Donna Miller of the Planning and Zoning

office. She was chosen by the directors of the City of Ruidoso Downs for the Employee of the 1st Quarter. He said she was given a plaque and then he asked for a round of applause.

Mayor Williams said he would like to point out that this is Police Week and it recognizes the service and sacrifices of the U.S. Law Enforcement. Tomorrow is a Police Officer Memorial Day and is held annually on May 15th to honor federal, state, and local officers killed or disabled in the line of duty.

Chief Babcock said in conjunction with the American Legion they will have a flag ceremony here in Ruidoso Downs at 8:00 a.m. tomorrow. They will supply us with a brand new flag and will fly it at half-mast during the day.

Harold Oakes said he is the commander of the American Legion and they will start at All American Park and take care of that flag and then come over here to do the ceremony.

Mayor Williams stated the next item on the agenda was - Councilor's Comments.

There were no Councilor's Comments.

Mayor Williams stated the next item on the agenda was - Tim Coughlin - Presentation-Boys and Girls Club of Sierra Blanca-Summer Food Service Program.

Tim Coughlin said the Summer Food Service Program is a USDA program that is administered through the CYFD in New Mexico. It provides free meals to any child between the ages of 1 and 18. This year as the Boys and Girls Club will take over. Last year we had nine sites in the County and this year we are expanding to fourteen sites. We got a grant that covers our transportation costs. Last year we used All American Park. Last year they were running out of food everyday and that was serving thirty. He said he anticipates forty to fifty meals a day and there is no cost. He said he was here today to ask permission to use All American Park as a site for Ruidoso Downs and would like to use the area next to the basketball courts because it has an overhang in case of bad weather. The hours would be 11:45 to 12:30 everyday starting May 29th to August 28th. They will not be serving on the weekends or on July 4th.

Mayor Williams stated the next item on the agenda was - Consider Approving Use of All American Park for Summer Food Service Program.

Mayor Williams entertained a motion to approve Use of All American Park for Summer Food Service Program

Councilor Hood moved to approve Use of All American Park for Summer Food Service Program. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was – R. Sam Swearingin – Presentation – COPE.

The presentation was given by Mike Maulden and that he was a psychologist in private practice here in Lincoln County and was serving as the chair of the COPE Advisory Committee. Mark Overick spoke and said the Center of Protective Environment (COPE Inc.) is a non-profit agency who's mission is to help people affected by domestic violence and other forms of abuse in Otero and Lincoln Counties. He said they work with The Nest and HEAL and have recently have begun the Sexual Assault Nurse Examiner Program and OATH (Organization Against the Trafficking of Humans). COPE provides advocacy, counseling, legal assistance, and they send an actual attorney with people when they have to file papers such as protection orders. He said beside the non-profit they still need about \$165,000 to operate every year.

Mayor Williams stated the next item on the agenda was – Consider Adopting Ordinance No. 2012-02 An Ordinance of the Governing Body of the City of Ruidoso Downs, New Mexico Adopting The New Mexico Uniform Traffic Ordinance 2010 Compilation Amendment by Reference.

Mayor Williams entertained a motion to Adopt An Ordinance of the Governing Body of the city of Ruidoso Downs, New Mexico Adopting The New Mexico Uniform Traffic Ordinance 2010 Compilation Amendment by Reference.

Councilor Miller moved to adopt An Ordinance of the Governing Body of the city of Ruidoso Downs, New Mexico Adopting The New Mexico Uniform Traffic Ordinance 2010 Compilation Amendment by Reference. Seconded by Councilor Hood.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was – Consider Approving Resolution No. 2012-06 CDBG Planning Grant.

Councilor Hood moved to approve Resolution No. 2012-06 CDBG Planning Grant. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was – Approving Personnel Recommendation – Department – Ruidoso Downs Police Department – Position – Police Officer.

Chief Babcock said they are requesting that they approve Timothy Winrow as a Police Officer for Ruidoso Downs. He has been a Police Officer for Carrizozo, Portales, and Tularosa for a total of 5 years prior experience and has many key attributes on his resume.

Councilor Miller asked if he would continue to live in Tularosa?

Chief Babcock said it is his understanding that he will be moving up here.

Mayor Williams entertained a motion to approve Personnel Recommendation - Department - Ruidoso Downs Police Department - Position - Police Officer.

Councilor Hood moved to approve Personnel Recommendation - Department - Ruidoso Downs Police Department - Position - Police Officer. Seconded by Councilor Perry.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was - Consider Approving Personnel Recommendations - Department - Lincoln County Transit - Positions - Two Part Time/On Call LCT Drivers.

Mayor Williams entertained a motion to approve personnel Recommendations - Department - Lincoln County Transit - Positions - Two Part Time/On Call LCT Drivers.

Councilor Miller moved to approve personnel Recommendations - Department - Lincoln County Transit - Positions - Two Part Time/On Call LCT Drivers. Seconded by Councilor Hood.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was - Consider Approving Wastewater Treatment Plant Operating Invoice for April 2012.

Councilor Hood moved to approve Wastewater Treatment Plant Operating Invoice for April 2012. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was - Consider approving Unauthorized Purchase - Main Street Computers - \$750.00

Carol Virden, City Clerk/Treasurer said the Economic Development Board received a grant for fiscal year 2011-2012 in the amount of \$5,000 based on four categories. Those were Seminars/Workshops for \$2,500, Website Updates for \$750, Business Plan Development for \$1,000, and Advertising & Promotion for \$750. Although the EDB receives funds from the State of New Mexico Tourism Department there are procurement requirements and the City of Ruidoso Downs does have in place a procurement policy. The acquisition required three quotes not to exceed the \$500 threshold. No quotes were sought out and no purchase order was issued. The EDB initiating procurement has previously met all requirements for any type of expense. Main Street Computers has already provided updates to the EDB website and will not activate until the payment is received. She said staff is recommending the approval to pay the vendor and as a result of services already rendered to the Economic Development Board website updates.

Mayor Williams entertained a motion to approve Unauthorized Purchase - Main Street Computers - \$750.00

Councilor Hood moved to approve Unauthorized Purchase - Main Street Computers - \$750.00. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was - Consider Approving Mayor's Recommendation of Appointment to the Planning and Zoning Committee of Mark Heinemann.

Mayor Williams entertained a motion to approve Mayor's Recommendation of Appointment to the Planning and Zoning Committee of Mark Heinemann.

Councilor Holman moved to approve Mayor's Recommendation of Appointment to the Planning and Zoning Committee of Mark Heinemann. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was - Consider Directing City Clerk to commence Public Hearing process for Consideration of Adopting Proposed Ordinance No. 2012-03 Amendments to Water Conservation Plan.

Cleatus Richards, Public Works Director the request is to proceed with the Public Hearing on Ordinance Amendments. We will be changing from water rationing to a drought contingency plan which are buzz words that most funding agencies now want to hear. They have redefined triggers for the existing three stages for water conservation and added two additional stages for more critical levels. They are asking that Phase I and II be automatically

triggered and Phase III and IV the Public Works Department will make recommendations to the mayor and he will authorize going into those stages. The physical stage would have to do with equipment failure or system contamination where immediate action would be required and then the Public Works Department would be authorized to go into that phase. Watering becomes more restrictive in each phase and in phase V there would be more conserving.

Mayor Williams entertained a motion to direct City Clerk to commence Public Hearing process for Consideration of Adopting Proposed Ordinance No. 2012-03 Amendments to Water Conservation Plan.

Councilor Hood moved to approve directing City Clerk to commence Public Hearing process for consideration of Adopting Proposed Ordinance No. 2012-03 Amendments to Water Conservation Plan. Seconded by Councilor Miller.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

Mayor Williams stated the next item on the agenda was – Discussion and Consideration to direct City Clerk to commence Public Hearing process for the Consideration of Adopting Proposed Ordinance No. 2012-04 ADOPTING A MUNICIPAL QUALITY OF LIFE GROSS RECEIPTS TAX.

Carol Virden, City Clerk/Treasurer said adopting a Municipal Quality of Life Gross Receipts Tax proposed Ordinance 2012-04 is on a timetable. The ordinance requires that we give the public 14 days notice prior to the adoption of the ordinance. When that 14 days is met the Governing Body adopts the ordinance as well as calling for a special election that is a requirement under the New Mexico Taxation & Revenue Department. That gives us a window two weeks prior to the 42 days of the General Election that would be held on November 5th. On June 11th if the council chooses to authorize the City Clerk to begin the process the Governing Body would adopt this ordinance on June 11th and then the question would be presented to the citizens of Ruidoso Downs for either for or against on September 4th which would be the Special Election.

Councilor Hood asked what the gross receipts tax would be used for?

H. John Underwood, City Attorney said the Municipal Quality of Life Gross Receipts Tax is subject to election and not the council. The tax, as quoted, would be used to meet the following goals:

Promoting and preserving cultural diversity, enhancing the quality of cultural programs and activities fostering greater access to cultural opportunities, promoting culture in order to further economic development within the municipality.

H. John Underwood, City Attorney said a lot of this concerns the ongoing funding for the museum. The expansion of that into more of a cultural event center would enhance that. It

would also be used to help and sustain existing programs such as requests from the Boys and Girls Club and the Boxing Club and both are non-profit and funds could be used for that. He said they have checked with the Municipal League and are eligible to enact this Quality of Life Gross Receipts Tax.

Mayor Williams entertained a motion to approve to direct City Clerk to commence Public Hearing process for the Consideration of Adopting Proposed Ordinance No. 2012-04 ADOPTING A MUNICIPAL QUALITY OF LIFE GROSS RECEIPTS TAX.

Councilor Miller moved to approve to direct City Clerk to commence Public Hearing process for the Consideration of Adopting Proposed Ordinance No. 2012-04 ADOPTING A MUNICIPAL QUALITY OF LIFE GROSS RECEIPTS TAX. Seconded by Councilor Holman.

Councilor Hood asked what percentage they were looking at?

H. John Underwood, City Attorney said he believed it would be $\frac{1}{4}$ of 1% and approximately \$190,000 per year.

Councilor Miller asked him to explain what that would be on dollars spent.

H. John Underwood, City Attorney said it would be for example if you spent \$10,000 it would cost you \$25 in taxes.

Councilor Holman said one thing he would like the council to consider is that this could be more devastating to us then the downturn of the economy.

H. John Underwood, City Attorney said a few years back the state eliminated the tax on food and medical services. The municipalities received approximately 1.2% of all of that revenue but for being able to receive that tax funding the Municipal League crafted a provision known as the Hold Harmless provision. The state agreed to hold municipalities harmless from the loss they would get from the food and medical services taxes. That goes year to year and over a period of 15 years would phase out completely.

Councilor Holman said this will be a decision of the citizens. He said they need to know that they have done everything they can to cut expenses before raising taxes.

Carol Virden, City Clerk/Treasurer said prior to each department meeting with the Budget Committee the department heads were given the task of developing a budget that was conservative as well as efficient. The museum has made significant reductions in the operations and Jim Kofakis; Director is still reorganizing to where his costs are efficient. This is not based on just to assist the museum but to also help other organizations within Ruidoso Downs that we can't currently fund.

Jim Kofakis, Museum Director said before this Quality of Life Gross Receipts Tax was even born and the last two years of being the director he has looked at efficiencies, costs, what they

are and what they are doing. He has taken a look at hours and days of operations and cutting expenses. He said there are going to be some major changes within the next couple of months. There will be a change in business models and opening up the museum for rentals and he is planning those changes for sometime in September.

Councilor Holman said during the budget meetings there were two positions discussed that the museum could operate without. He said he needs a commitment tonight that these two positions will be done and maybe without those and with fundraising they may not need the tax.

Jim Kofakis, Museum Director said they will become extremely more efficient in the next few months but preferred not to talk about personnel issues right now.

Roll call votes: Councilor Holman, Aye; Councilor Hood Aye; Councilor Miller, Aye; Councilor Perry, Aye. Motion carried.

OTHER BUSINESS (items are for discussion only-no action will be taken)
There was no Other Business.

PUBLIC INPUT

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

Pam Williams said I am here this evening to ask our Governing Body to use common sense. It seems you have lost yours. You people need to look at your budget requests closely. We are not a large city. We are overstaffed at a very high cost. Over 3 million dollars is an insane payroll for such a small city. We are paying too many benefits and 65% of payroll is benefits. The national average is still 25-35%. 90% insurance payment and a clothing allowance is ridiculous. You are talking \$701,000 in insurance, which doesn't include Workman's Comp and sick leave pay and \$62,100 clothing allowance alone. Cities as large as Albuquerque are not even this generous. Health insurance is going up 10% which is paid by the generous citizens of Ruidoso Downs and you plan to give another 3.5% raise on top of that. A third of our budget of 10 million dollars is payroll. The transit system which is illegally funded through Lodgers' Tax is nuts. We had a BRT tax added last year and now you want a GRT tax added on to that. Are you going to go down the alphabet with taxes and want to pay for Special Elections to get it? Are we not park poor, do you want to add another park to the museum to get more grants? We haven't even finished the latest park purchase. It's still a leak patch with no shade to even have a picnic. You've got to stop this insane spending and keep your hands out of our wallets. It's time to increase the services and decrease the costs to our residents. She said she had a copy for everyone of this and also of her concerns from last year, which is basically the same. She said it really needs to be thoroughly looked at.

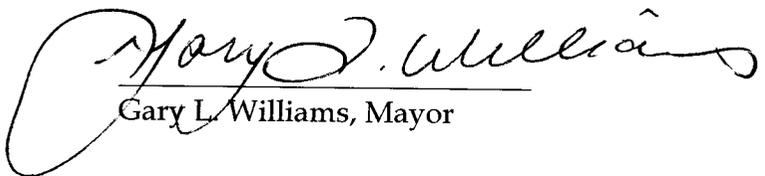
Mark Heinemann said first of all thank you for the appointment. Second, my disappointment in all of you tonight. You just pitted citizen against citizen in your community. You haven't exhausted any other opportunities to find funds for the museum or any other way, you just

want to raise the tax. It's going to be neighbor against neighbor, business against business, and I'm appalled at you all. You didn't try anything. You didn't stand up in front of this community and try to come up with any alternatives. You didn't ask for any volunteers to try to find funds. You didn't even try to form a committee. I'm extremely disappointed.

Joyce Gustafson said with the new Quality of Life GRT that you have just voted to hold that Special Election for has made it accountable to someone other than yourselves. But, if this is what your conscience is telling you to do then so be it. It seems it is just the way politicians put another tax on the people instead of trying to cut back on expenses. We raised the tax as our attorney knows and we pray for him, Mr. Underwood to go to Santa Fe and lobby for the BRT tax. Now we are fixing to do another GRT tax to keep this museum open. This is for Mr. Hubbard and I'm disappointed. I understand what Mr. Underwood was trying to explain to us but I do have some concerns. Do you really feel this is a fair thing to do to the residents of Lincoln County? You said the new tax would raise about \$190,000 in revenue each year to be distributed among qualified recipients in Ruidoso Downs but we all know the museum will receive the mass of these funds if the voter's pass this new tax. I would not be as offended by this new tax if our city had tried back in August 2005 to scale back on operational expenses at the museum. My hat is off to Jim Kofakis to the cuts he has made to the museum budget since he was made director. There are just not enough revenue for the expenses. The administration that was in place during 2005 apparently did not look very well and very far down the road when they shook hands with the Hubbard's. They all thought they were sealing a wonderful deal for our city. What happens if the State does decide to change how we are to receive our GRT? Would we not be smart to make some preparation in our budget now instead of later? What's wrong with hiring contract labor on an as-needed basis in the areas that don't need full staff? Why hire these people over at the museum. Let them know now so they can be looking for a job meantime. With the city paying 90% of employee benefits think of what the city could save on the annual budget.

ADJOURNMENT

There being no further business to attend to, Mayor Williams adjourned the meeting at 6:43 p.m.



Gary L. Williams, Mayor



ATTEST:



Carol Virden, City Clerk/Treasurer