

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
NOVEMBER 25, 2013
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on November 25, 2013. Mayor Williams called the meeting to order at 4:30 p.m. and asked Mary Castaneda 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:

Alexandra Bobbit, City Attorney
Christopher Rupp, Police Chief
Terri Mosley, Finance Director
Ray Pawley, Independent Consultant HMAW

APPROVAL OF AGENDA

Mayor Williams stated next item on the agenda was Approval of Agenda. Mayor Williams said he recommended Item G, H, and I to be removed and postponed until the January 13, 2014 meeting. This is a recommendation from staff to do a little more investigation on that request.

Councilor Hood moved to approve the agenda with the Mayor's recommendation to postpone Item G, H, and I until the regular meeting on January 13, 2014. Seconded by Councilor Perry.

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.

APPROVAL OF CONSENT AGENDA

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

Mayor Williams entertained a motion for Approval of the Consent Agenda.

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

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

APPROVAL OF MINUTES OF JOINT WORK SESSION OF NOVEMBER 5, 2013

APPROVAL OF MINUTES OF REGULAR MEETING OF NOVEMBER 12, 2013

Councilor Miller moved to approve Minutes of the Joint Works Session of November 5, 2013 and the Regular Meeting of November 12, 2013. Seconded by Councilor Perry.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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

UNFINISHED BUSINESS

Mayor Williams said there was no Unfinished Business.

APPROVAL OF MONTHLY REPORTS: OCTOBER 2013

Councilor Miller moved to approve Monthly Reports for October 2013. Seconded by Councilor Perry.

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

COMMITTEE REPORTS

Councilor Miller moved to approve Committee Reports. Seconded by Councilor Perry.

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

NEW BUSINESS

Mayor Williams stated the next item on the agenda was – Mayor’s Comments.

Mayor Williams had no comments.

Mayor Williams stated the next item on the agenda was – Councilor’s Comments.

There were no Councilor’s Comments.

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 Possible Action – Resolution No. 2013-23 Regular Municipal Election 2014 (Both in English and Spanish).

Carol Virden, City Clerk/Treasurer said it is time again for Municipal Elections to be held on March 4, 2014. At the regular Municipal Election the person shall be elected to fill the following elected offices: there will be two Councilors for a four year term, Precincts 10.4, 11.3 and Precinct parts 22.1 are consolidated for the regular Municipal Election. The following location is designated as polling place for the conduct of the regular Municipal Elections and voters in consolidated Precincts 10.4, 11.3 and Precinct part 22.1 shall vote at the City Council Chambers at 123 Downs Drive at City Hall in the Hubbard Room, Ruidoso Downs, New Mexico. Absentee voting – the applications for absentee ballots may be obtained through the office of the Municipal Clerk. All applications for an absentee ballot must be completed and accepted by the Municipal Clerk prior to 5:00 p.m., February 28, 2014. After 5:00 p.m. on February 28, 2014 all unused absentee ballots will be publicly destroyed by the Municipal Clerk. The Municipal Clerk will accept completed absentee ballots delivered by mail or in person by the voter casting the absentee ballot or by a member of the voters’ immediate family or by the caregiver to the voter until 7:00 p.m. on March 4, 2014. Absentee ballots may be marked in person in the office of the Municipal Clerk during the office of the Municipal Clerk during the regular hours and days of business beginning on Tuesday, January 28th and closing at 5:00 p.m. Friday, February 28, 2014. Early voting on paper ballots counted by the M100 Electronic Vote Tabulator will be conducted in the office of the Municipal Clerk during the regular hours and days of business beginning on Wednesday, February 12, 2014 and closing at 5:00 p.m. on Friday, February 28, 2014. Persons desiring to register to vote at the regular Municipal Election must register with the County Clerk of Lincoln County not later than Tuesday, February 4, 2014 at 5:00 p.m. the date on which the County Clerk will close registration books. All declarations of candidacy shall be filed with the Municipal Clerk on Tuesday, January 7, 2014 between the hours of 8:00 a.m. and 5:00 p.m. The casting of votes by qualified municipal electors shall be recorded on paper ballots to be counted by the M100 Electronic Vote Tabulators. Carol Virden said I do also want to mention that the City Council had spoken about the possibilities of placing a Quality of Life gross receipts tax ordinance on this election. Due to the time frame that we have not met there is no way possible that we can get that question on this election. The time table for that election process is that we have to give notice of the proposed ordinance by publishing its title and subject matter at least two weeks prior to the consideration of the ordinance by the governing body. That consideration would be fourteen days prior to and we do not meet that deadline. She said I

also do have a potential candidates packet available for those potential candidates who wish to run for the two vacancies of City Councilors and will be available at the office of the City Clerk. This packet does contain all of the information that is required and needed by the potential candidate as well as the forms that are required for filing.

Mayor Williams entertained a motion to approve Resolution No. 2013-23 Regular Municipal Election 2014 (Both in English and Spanish).

Councilor Hood moved to approve Resolution No. 2013-23 Regular Municipal Election 2014 (Both in English and Spanish). 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 Possible Action - Resolution No. 2013-24 Budget Adjustment - Transfer from Lodgers' Tax to HMAW.

Terri Mosley, Finance Director said the museum staff is requesting an increase in their Gift Shop expenditure line item so that they can stock items. Currently there is enough money in Lodgers' Tax non-promotional. At the end of October we had \$17,964.04. I have transferred everything that has been budgeted for over into the museum fund so far and there are no outstanding transfers to be made from the Lodgers' Tax into the museum. We are asking that they increase the transfer line items in the museum by \$10,000.00 and in the Lodgers' Tax non-promotional by \$10,000.00 and also increase the Gift Shop expenditure line item by \$10,000.00.

Mayor Williams entertained a motion to approve Resolution No. 2013-24 Budget Adjustment - Transfer from Lodgers' Tax to HMAW.

Councilor Hood move to approve Resolution No. 2013-24 Budget Adjustment - Transfer from Lodgers' Tax to HMAW. 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 Possible Action - Memorandum of Understanding Between the Village of Ruidoso, City of Ruidoso Downs, the 12th Judicial District Attorney and the County of Lincoln.

Chief Rupp said this is a typical MOU regarding our Drug Task Force that we currently participate in. The recent update includes the 12th Judicial District Attorney. The MOU is renewed every four years. The Task Force is reviewed by a Board of Directors. We have passed this over to Carol and as well to the Mayor and the City Attorney. Alex has had a chance to review it and if there are any questions you may ask Alex or myself.

Mayor Williams entertained a motion to approve Memorandum of Understanding Between the Village of Ruidoso, City of Ruidoso Downs, the 12th Judicial District Attorney and the County of Lincoln.

Councilor Miller moved to approve Memorandum of Understanding Between the Village of Ruidoso, City of Ruidoso Downs, the 12th Judicial District Attorney and the County of Lincoln. Seconded by Councilor Holman.

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 Possible Action – Approval of Registration Fee for 2 Keep Ruidoso Downs Beautiful Committee Members to Attend KAB National Conference in Charlotte, NC on February 3-6, 2014 and to be Paid from Lodgers' Tax Fund.

Councilor Miller said this is nationals for Keep America Beautiful. We learn a lot there on how to promote our community and make it beautiful and keep the litter and recycling going. It's very beneficial that we attend. We get our grant from New Mexico Clean & Beautiful which is part of the tourism department of the state. We don't have a tourism department here but we, ourselves, the Beautification Committee and the Economic Development Board does a part of it. Since we are paid out of tourism we can take things from our area. They have a sharing table everywhere we go. I took postcards from the museum and trinkets and some information about the race track and Inn of the Mountain Gods. Everything I put on the sharing table which is open throughout the conference was gone. People were really interested in coming to New Mexico. We advertise our town and our state when we go so I think it is important that we get some Lodgers' Tax money to help us with the registration fee so we can go.

Mayor Williams entertained a motion to approve Registration Fee for 2 Keep Ruidoso Downs Beautiful Committee Members to Attend KAB National Conference in Charlotte, NC on February 3-6, 2014 and to be paid from Lodgers' Tax Fund.

Councilor Hood moved to approve Registration Fee for 2 Keep Ruidoso Downs Beautiful Committee Members to Attend KAB National conference in Charlotte, NC on February 3-6, 2014 and to be Paid from Lodgers' Tax Fund. Seconded by Councilor Holman.

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 Possible Action – Lincoln County Transit – Manager. What action to take regarding future operation of Lincoln County Transit.

Mayor Williams said we are looking to Council as to what you are expecting for transit and what the City is responsible for as fiscal agent. The presentation was made to the Economic Development District SERPO meeting last week for the funding for the application to DOT 5311 funding for 2014-2015 for the transit system. It depends on the Council decision of where we want to go with the transit.

Mayor Williams entertained a motion – Discussion and Possible Action – Lincoln County Transit – Manager and what action to take regarding future operation of Lincoln County Transit.

Councilor Hood moved to approve. Seconded by Councilor Miller.

Carol Virden, City Clerk/Treasurer asked what the motion was?

Mayor Williams said let's just have discussion right now.

Carol Virden, City Clerk/Treasurer said currently the Lincoln County Transit is operating without a Transit Manager. Currently Terri Mosley has been working fiercely and it's frustrating for the reimbursements for August, September, and October now for the Lincoln County Transit. They are currently in the red for \$18,337.41. There's options, and I don't know what the dollar amount is for the reimbursements for August, September, and October but not enough to cover the \$18,337.41 in the red. I'm not sure what direction the Councilors would like for staff to take for the operations. It's apparent there is not enough money to go out for a possible independent contractor when we previously took transit on board several years ago. We certainly don't have the funds to go out and advertise for Lincoln County Transit Manager currently. Staff is asking what direction you would like for us to take.

Councilor Miller asked if attendance has fallen also or what's going on? You said the reimbursements aren't enough either to cover.

Terri Mosley, Finance Director said for instance today the deposit was \$53.00.

Carol Virden, City Clerk/Treasurer said the deposit was for Friday. I do want to inform the Council that transit has currently been running as directed by City Council as of May 2013. Previously the previous manager was not running the transit in accordance with the directive of the City Council. With that in mind there was a lot of overtime for the drivers. The full-time driver not to exceed 32 hours per week and the on-call part-time drivers not to exceed 19 hours per week. They have exceeded that and we knew that was going to happen. Then when the transit manager left we had to move quickly and we did allow the full-time driver to continue and we knew she was going to go over the 40 hours because we didn't have a choice at the time. Now that it comes before the Council and staff has been informing the Council that the transit fund is getting deeper, and deeper, and deeper in the red.

Councilor Miller said this is really a bad time to let people down in the winter and they can't get to work. I wish we could do it somehow through the winter. What about the reimbursements that are owed?

Carol Virden, City Clerk/Treasurer said it was the failure of the Transit Manager for not submitting those reimbursements in a timely fashion.

Councilor Hood asked if we have those actual dollars?

Carol Virden/City Clerk said no. We did have the transit not take what is called demand calls. They have to call at least a day prior to pick up so that is what they have been following. They have been trying to cut back as many hours as possible for the employees and for the runs based on the availability of funds. We are trying to do the best we can with what we have.

Mayor Williams thanked Cecilia for working with what they have and said it's a difficult environment for us financially and we can't stay in the red. It all depends if we want to continue to dip into the General Fund or find other sources of funding. We were left in a difficult situation by the past manager and she should have gone out and done more but I don't want to blame it on her completely. It's like starting all over again. If we get an independent consultant they will be starting all over again. I would ask the Council to really consider what is important and obviously it is important to the citizens and communities involved but it's also something we need to consider financially because we are limited in funding in our budget.

Councilor Miller asked what would happen to their equipment? Did that come from a grant and do we have to give it back?

Carol Virden, City Clerk/Treasurer said I'm not too sure on that. I do know that if the Council chose to shut the transit down that we would have to notify DOT and give them at least a 30-day notice I believe. Not only that we would also have to notify the citizens of Ruidoso Downs and the Village of Ruidoso and the Village Governing Body as well as to what the intent is. Well, it's not an intent it's a do or die thing.

Councilor Miller asked if there could be a three month trial to see when we get all of these reimbursements back and see how it's going to work and see if they follow the directives of the Council? I would still like to see a schedule for them to stop at hotels and take them to different events even if it's downtown or wherever? I never did see that schedule that we asked Ms. DeSoto to do. That's one reason we couldn't put Lodgers' Tax into it because they weren't transporting our visitors.

Terri Mosley, Finance Director said right now because we've cut back so much on the staff I don't know who would work that. I have spent a lot of time working back and forth with DOT on some of these so it's not simple.

Mayor Williams said with the new Finance Director coming in and after she's been trained it's a whole different animal with DOT and the federal programming and dealing with the requirements. She hasn't quite gotten to that level yet and it's difficult for her event to continue it. Obviously CeCe is not able to do it because she doesn't have the expertise or background to do it. She can get parts of it in but the whole thing we've been dealing with and as expensive as it is and it has a lot of regulations and requirements. You have to have someone who really understands it and can go through the process. The lack of resources on our end is hampering our ability to follow through on all of this. Again, Councilors you need to consider all of the options that you have available otherwise we will have to go through what the contract with DOT calls for and our partners next door.

Councilor Miller asked how long that would take? Maybe at this point Ruidoso would decide to take it over. Is it my understanding that it stays open until all of this can be done with DOT and Ruidoso?

Carol Virden, City Clerk/Treasurer said I don't know all of the ins and outs of the grant agreement but I do know is that we would have to notify the Department of Transportation and give them a 30-day notice if the Council chooses to shut the transit down as well as give notice to the employees and City of Ruidoso Downs residents as well as the Governing Body at the Village of Ruidoso. If there are any funds available or left in Lincoln County Transit and apparently there are not going to be any even after the reimbursements we would have to turn those funds over to the Department of Transportation.

Mayor Williams said the vehicles, three of them, one came from the ARRA, one came from donation, and the other two I'm not sure but I think one came from the DOT.

Terri Mosley, Finance Director said some of those programs once they reach 100,000 miles they become our property. I'm not sure about the different programs.

Mayor Williams said this has been a valuable service to the citizens of this community. Taxpayer money has been used from the citizens for the program that has funded the budget that has given them the opportunity to use it as a transportation mode.

Carol Virden, City Clerk/Treasurer said this is only a suggestion and regardless if the transit is in the red at this point that we allow transit to run for an additional two weeks until such time that we can find out the ins and outs and what the requirements are should the Council decide to shut the transit down at least until December 9th to find out all of the specifics on what the proper procedure is for that. There will be a need probably at that point to transfer funds and the only available funds that the City of Ruidoso Downs has is

from the General Fund. That would also take a resolution to transfer those funds into the transit for the operation in different line items and mainly the salaries I would think.

Mayor Williams said with that recommendation I would like to ask Council to consider postponement of further discussion until staff can come back with information to allow you to research it and understand what needs to be done. So I ask Council to consider postponing this until the December 9, 2013 meeting.

Councilor Hood moved to postpone until the December 9, 2013 meeting. Seconded by Councilor Miller.

Carol Virden, City Clerk/Treasurer said this is to allow staff to gather more information, is that correct?

Council agreed that was the purpose.

Councilor Holman said the thing that bothers me the most is that General Fund again and we don't get reimbursed. That really bothers me. It's bothered me for years.

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)

Mayor Williams stated the next item on the agenda was - Updated Financial Status Report - Hubbard Museum of the American West and Lincoln County Transit.

Terri Mosley, Finance Director said this is as of November 9th for the Gift Shop but year to date \$107,564.38 in revenues and in the Museum Fund expenditure of \$183,703.73. There has been \$150,000.00 transferred into that fund leaving \$88,383.43.

Mayor Williams said I would like to let everybody know that will be the last report for our Finance Director who will be retiring but vacationing for a month first. I would like to thank her very much for what she has done for the City over my last five years and before that. She has been a tremendous asset working with the complexities of the budget. You wouldn't think so with a small town but I've seen her and seen what it takes with the transit and the museum definitely adds to it. I want to congratulate you on your retirement and thank you for your service to the City of Ruidoso Downs and the citizens of this community as an overseer of taxpayers money.

There was a round of applause.

Carol Virden, City Clerk/Treasurer said it's been a great pleasure to have worked with you Terri Mosley for the last twelve years. We've been through great times, tough times, good times, sad times but it's been most enjoyable to work with you and you have done a super, super, super job. Thank you very much.

Councilor Miller said the same goes for me. I'm going to miss you.

Councilor Holman said you are an awesome lady.

Councilor Hood said enjoy your retirement.

Councilor Perry said thank you so much. Not only from us but for the citizens of Ruidoso Downs for what you've done.

Peggy LuJane said when I worked with her no matter what she was doing she always had time to help any of the employees.

Mayor Williams thanked everyone for the comments and said it's important for our media partners to know that too.

CLOSED SESSION

Limited Personnel Matters Pursuant to Section 10-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee.

- Consider Review of Decision of Hearing Examiner and Determination whether to uphold the recommendation of Hearing Examiner Pursuant to City of Ruidoso Downs Personnel Policy Chapter 11 Rule 1105

Any action taken as a result of the Closed Session will be brought back into Open Session.

Mayor Williams entertained a motion to go into Closed Session for Limited Personnel Matters Pursuant to Section 10-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee.

- Consider Review of Decision of Hearing Examiner and determination whether to uphold the recommendation of Hearing Examiner Pursuant to City of Ruidoso Downs Personnel Policy Chapter 11 Rule 1105

Any action taken as a result of the Closed Session will be brought back into Open Session.

Councilor Hood moved to go into Closed Session for Limited Personnel Matters Pursuant to Section 101-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee.

- Consider Review of Decision of Hearing Examiner and determination whether to uphold the recommendation of Hearing Examiner Pursuant to City of Ruidoso Downs Personnel Policy Chapter 11 Rule 1105

Seconded by Councilor Miller.

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

Mayor Williams closed the regular meeting at 5:08 p.m. and invited Mayor Williams invited the Carol Virden, City Clerk/Treasurer, Christopher Rupp, Police Chief, Alexandra Bobbit, City Attorney and called for a five minute recess.

Mayor Williams entertained a motion to go back into Open Session.

Councilor Hood moved to go back into Open Session. Seconded by Councilor Perry.

Mayor Williams called the regular meeting back to order at 5:50 p.m. and asked Councilor Perry to attest to the fact that the only items discussed in Closed Session were that of Limited Personnel Matters Pursuant to § 10-15-1, H.2, NMSA 1978 Consider review of decision of Hearing Examiner and determination whether to uphold the recommendation of Hearing Examiner Pursuant to City of Ruidoso Downs Personnel Policy Chapter 11 Rule 1105.

Councilor Perry attested to the fact that the only items discussed in Closed Session were that of Limited Personnel Matters Pursuant to §10-15-1, H.2, NMSA 1978 Consider review of decision of Hearing Examiner and determination whether to uphold the recommendation of Hearing Examiner Pursuant to City of Ruidoso Downs personnel Policy Chapter 11 Rule 1105.

Councilor Holman moved to reverse the decision of the Hearing Examiner to terminate Officer Valenzuela. Seconded by Councilor Miller.

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

Mayor Williams entertained a second motion.

Councilor Holman moved to suspend Officer Valenzuela without pay for two weeks with the conditions attached:

1. He will attend remedial training of the United States Constitution.
2. That remedial orientation of the Personnel Policy Manual will be done by a said officer.

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

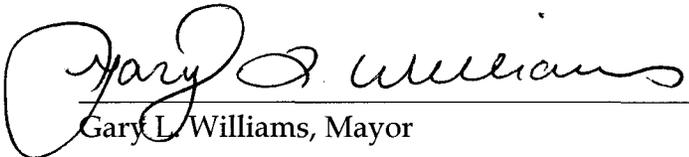
PUBLIC INPUT

(All concerns to be addressed only to the Governing Body as Whole with a 3-Minute time limit)

There was no Public Input.

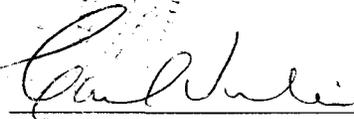
ADJOURNMENT

There being no further business to attend to Mayor Williams adjourned the regular City Council meeting at 5:53 p.m.



Gary L. Williams, Mayor

ATTEST:



Carol Virden, City Clerk/Treasurer