

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JUNE 23, 2014
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on June 23, 2014. Mayor Williams called the meeting to order at 4:30 p.m. and asked Chief Rupp to lead the Pledge of Allegiance. Mayor Williams asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Miller
Councilor Morales

Councilor Perry
Councilor Hood (absent)

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

Also present:

H. John Underwood, City Attorney
Christopher Rupp, Police Chief
Mary Castaneda, Finance Director
Janis Rowe, HMAW Associate Director

APPROVAL OF AGENDA

Mayor Williams stated the 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 Morales.

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

APPROVAL OF CONSENT AGENDA

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

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

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

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 9, 2014

Councilor Morales moved to approve Minutes of the Regular Meeting of June 9, 2014.
Seconded by Councilor Perry.

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

APPROVAL OF ACCOUNTS PAYABLES

Councilor Morales moved to approve Accounts Payables. Seconded by Councilor Perry.

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

APPROVAL OF MONTHLY REPORTS

Councilor Morales moved to approve Monthly Reports. Seconded by Councilor Perry.

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

COMMITTEE REPORTS

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

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

UNFINISHED BUSINESS

Mayor Williams said there was no Unfinished Business.

NEW BUSINESS

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

Mayor Williams said we’ve had a couple of sprinkles lately which was nice but it really hasn’t done much for us so restrictions are still in place so right now be very diligent with fire use and keep an eye out for anyone who is not.

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 – Discussion and Possible Action – Approval of Agenda Briefing Memorandum – Requesting Special Programming Admission Charge.

Janis Rowe, HMAW Associate Director said I decided to bring Drew Gomber to the museum to do a special presentation on Billy the Kid because a new group of people are interested and these are visitors and a lot of them have second homes here. I am asking to charge a fee of \$10.00 per person for this event. There are 120 seats and I think we can fill the room.

H. John Underwood, City Attorney said we had a chance to discuss this earlier in the Staff Meeting. The issue that we have is how to work this through our funding. Maybe this is something that should have been preplanned and put on the budget. We will have to file that as an amended expenditure. We can't spend any new money until we get approval from DFA for the budget.

Carol Virden, City Clerk/Treasurer said Mary did contact our Budget Analyst after we met for the Staff Meeting and she has a recommendation on that.

Mary Castaneda, Finance Director said I did speak with Erica Cummings and asked her if we were able to use expense, this \$450 that was not included in our Preliminary Budget. She said since it was such a small amount and that we are in the black more than \$450 and this would be acceptable which will be on our final budget which has to be submitted in July.

H. John Underwood, City Attorney said the only thing I would ask Janis for in writing was that the Hubbard Museum Foundation has agreed that whatever admissions if it would happen that admissions would not cover Mr. Gomber's fee. The Hubbard Museum Foundation would pay that and the City would not be responsible to pay that. Janis has given me an email from Mr. Donaldson at the Hubbard Foundation saying they will cover that. I ask that the condition be placed in the motion to approve.

Mayor Williams entertained a motion to approve Agenda Briefing Memorandum – Requesting Special Programming Admission Charge with the special language as just discussed.

Councilor Miller moved to approve Agenda Briefing Memorandum – Requesting Special Programming Admission Charge for Drew Gomber to be held in the Cope Center and permission to charge a \$10 admission fee and Mr. Gomber would be paid out of that same money.

Councilor Morales added that under the condition that if admissions do not cover Mr. Gomer's fee that the Hubbard Museum Foundation would cover the balance. Seconded by Councilor Perry.

Councilor Morales asked what time this would be?

Janis Rowe, HMAW Associate Director said in the morning before racing starts on a Saturday.

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

Mayor Williams stated the next item on the agenda was - discussion and Possible Action - First Amendment to Joint Powers Agreement for the Financing and Establishment of the Otero County/Lincoln (now GREENTREE Regional Landfill).

Debra Ingle, Regional Supervisor for Greentree Solid Waste Authority said on the amendment for the JPO that we ask for the Joint Board of the Otero/Greentree Regional Landfill which was done in 2013. The ownership of the landfill is held 50/50 between Otero County Solid Waste Authority and Greentree Solid Waste Authority. They determine through their budget process, which Alamogordo is the overseer of the landfill, that with the loss of revenues from the asbestos due to the fact that Holloman Air Force Base and Fort Bliss are now complete they have turned over a long-range plan that they are going to have to raise the rates at the landfill. That was approved in 2013 for the next ten years. That is based on information supplied to the Joint Board. They are also finishing out sale closures and we had reserves that were put aside to make sure that sale closures were all in compliance. They found that last year we had an overage in reserves in the amount of around \$400,000 that all of the voting members had asked if that could be rebated back to the owners. The way it's written it's 50/50 and that's Alamogordo and Ruidoso and a lot of members don't find that to be fair considering they paid into the landfill and asked that it be paid proportionately. After many meetings it was finally agreed upon through the First Amendment to the Joint Powers Agreement that all twelve voting members agree to that to be amended to it being paid back proportionately so that the City of Alamogordo since they paid much more into it as did the Village of Ruidoso that they wouldn't be giving money to members that hadn't paid in that kind of money. That's what this amendment is and it was sent to DFA for their approval. They came back and asked is that each member of the Authority sign off on this approval. This approval has now made it past all members. Everybody in Otero County, the City of Alamogordo, Cloudcroft, Tularosa, County of Otero they have all approved it. So has Capitan, Carrizozo, Village of Corona, and the Village of Ruidoso have approved this. This year the meeting came around in March and we looked at the budget and based on the 3% increase they did not give any rebates. If we were to get the money back proportionately at \$400,000 Greentree would only see like \$137,000.

Mayor Williams said I would like to move on with a motion and a second but let others ask their questions first.

H. John Underwood, City Attorney said what I'm concerned about is if there was a rebate authorized back in May of 2013 when the \$400,000 first came up and at that time the City Attorney for Alamogordo talked about the fact that the JPA needed to be amended on E of page 6. This particular motion didn't pass. What you're telling me is that later this motion passed. You're telling me that the City of Ruidoso Downs is not a part of that agreement to the JPA and yet our Mayor and other Mayors sit on that board as members. I'm unclear how that happens if we're not a party to that because this First Amendment states "this amendment of the Joint Powers Agreement is made and entered into by and between Otero County Solid Waste Authority and Greentree Solid Waste Authority, the County of Otero, City of Alamogordo, Village of Tularosa, Village of Cloudcroft, County of Lincoln, City of Ruidoso Downs, Town of Carrizozo, Village of Capitan, Village of Corona, and Village of Ruidoso." Since I don't have a copy of that Joint Powers Agreement in front of me I'm curious as to why we are listed as being a signatory to it and you're telling me that we're not.

Debra Ingle said you are a member of GSWA as a member and we are the owner. DFA wrote back that they would prefer if all members sign it.

H. John Underwood, City Attorney said I see here a breakdown of what Greentree is getting in the amount of \$24,000 from a non-member asbestos. Then I see that Greentree is getting \$137,105 with the remainder of will be split up proportionately in the amount of \$367,000. Excuse me. They are getting \$61,333 of that and then Ruidoso is getting \$51,335 of that and as I understand it that was approved last week. And, that is because they have their own solid waste collection and pay their own solid waste fee, is that correct?

Debra Ingle said that is correct.

H. John Underwood, City Attorney asked if they still have their environmental gross receipts tax pledged to you for the debt?

Debra Ingle said yes.

H. John Underwood said I have a copy of that JPA which was done later which provides that all profits shall be divided equally between the Village of Ruidoso and the remaining members. And you indicate that the rebate is not a profit it is just a rebate. My question is that I see where Alamogordo is getting 36%, Otero County is getting 18%, Ruidoso is getting 12%, Cloudcroft is getting 2.38%, and Tularosa is getting 2.19%. So, members of the Otero County portion are shown as to how much money they are getting but Ruidoso Downs, Capitan, Ruidoso and all of those there is nothing showing. I would take that to mean that Greentree Solid Waste Authority has not determine what if any those entities are going to receive for this rebate.

Debra Ingle said one of the reasons is because Otero County Solid Waste Authority is not a working member off the mountain as Greentree Solid Waste Authority is. They are for the landfill only.

H. John Underwood, City Attorney said is the only way the City of Ruidoso Downs can make a determination as to whether or not it receives its rebate or not would be to oppose this amendment until such time as Greentree Solid Waste Authority determines whether or not it is going to give it to Ruidoso and Ruidoso Downs.

Debra Ingle said you can put it on again next month agenda because this agenda has already been posted. I've been able to come up with your estimated numbers.

H. John Underwood, City Attorney said if we approve this prior to that determination of that being made we no leverage. This member hasn't agreed to anything.

Debra Ingle said this one was agreed to as a Joint Agreement. This amendment is so we can do it proportionately.

H. John Underwood, City Attorney said what if we can't do this one until it's determined whether or not we're going to get our proportion?

Debra Ingle said this is the breakdown.

H. John Underwood, City Attorney said if we're getting \$6,800 does it matter whether they have a rate increase?

Debra Ingle said we won't do a rate increase this year.

H. John Underwood, City Attorney said it doesn't make any sense how it is that we either got a \$7,000 rebate or if there is a different proportion paid under some theories as you know. I'll accept your sum of \$7,000 because all of that affects our consumers out there. I don't know if we were to vote to send back the \$7,000 our consumers wouldn't have to pay the increase in tipping fees whether or not to take action on Item F tonight if there is an increase in tipping fees until a decision has been made by you guys on whether we're going to get our rebate back or not.

Debra Ingle said the rate increase has already gone into effect.

H. John Underwood, City Attorney asked if we have been paying them?

Debra Ingle said no.

H. John Underwood, City Attorney said you also know that the Joint Powers Agreement says that we're not responsible for your debt.

Debra Ingle said that is correct, but, you still have to pay the tipping fee at the landfill.

H. John Underwood, City Attorney said you have to pay the tipping fee at the landfill, we don't.

Debra Ingle said correct.

H. John Underwood, City Attorney said with all that I didn't have a copy of the Joint Powers Agreement. It's interesting to me that the amendment refers to a paragraph 11D and the minutes of the meeting refer to a paragraph 6E. So, without having the Joint Powers Agreement in front of me I wouldn't know whether the paragraph recited by the attorney is correct or the other paragraph. From a legal point of view I would prefer to be able to review the correct Joint Powers Agreement that this is referring to as opposed to the other. I would also recommend that we know the action of the Solid Waste Association is taking in regard to the rebate and how much the rebate is so we can make a determination on whether or not we want to adopt the amendment or not. Otherwise we lose control whether or not we want the rebate. By doing that I would recommend that you also put that off until the next meeting until I have that document I can't advise the City legally on this.

Mayor Williams asked Council if they had any questions?

Councilor Morales said I don't have any questions but I don't think we have enough information for us to go forward with. We could ask questions and go back and forth all day long but if we don't have the information in front of us what do we do with that.

Councilor Miller said I agree with the attorney and can't make a decision until we have the information.

H. John Underwood, City Attorney asked Mary Castaneda, Finance Director if she had the financial information on this?

Mary Castaneda, Finance Director said no and I'm going to stand with your suggestion also.

H. John Underwood, City Attorney said they should just postpone this until the meeting of August 11, 2014.

Mayor Williams asked if this would be for Item D, E, and F to be postponed?

H. John Underwood, City Attorney said that is correct. I really would like to have a Special Meeting if Debra is going to be here.

Debra Ingle said I won't be back until July 17th.

H. John Underwood, City Attorney said the rate increase requested here is for a 2% per ton at the landfill and that is passed on to our consumers and that would be commencing July 1st. Wouldn't the fact that we are receiving or applying for a rebate back to credit affect that?

Debra Ingle said rates went up 2% on July 1, 2013. That rate increase would be the rebate offset.

Carol Virden, City Clerk/Treasurer said I would strongly suggest that this Council table D, E, and F until August 11th City Council meeting with all backup documents related to all discussions here tonight. Our Council members are looking at nothing except what I provided them which was provided to me by Debra Ingle. Mr. Underwood has a lot more information and documents that I think would behoove the Council to study on.

Carol Virden, City Clerk/Treasurer said this is a question to our legal. Prior to our Mayor calling a Special Meeting do we not have to handle D, E, and F individually and postpone until the Special Meeting is called?

H. John Underwood, City Attorney said you're right Carol.

Mayor Williams entertained a motion to postpone Discussion and Possible Action - First Amendment to Joint Powers Agreement for the Financing and Establishment of the Otero County/Lincoln now GREENTREE Regional Landfill.

Councilor Morales moved to postpone Discussion and Possible Action - First Amendment to Joint Powers Agreement for the Financing and Establishment of the Otero County/Lincoln now GREENTREE Regional Landfill until the Special Meeting is scheduled. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Joint Resolution of the Greentree and Otero County Solid Waste Authorities - Resolution No. 2013-05 Increasing the Tipping Fees at Regional Landfill.

Mayor Williams entertained a motion to postpone Discussion and Possible Action - Joint Resolution of the Greentree and Otero County Solid Waste Authorities - Resolution No. 2013-05 Increasing the Tipping Fees at Regional Landfill.

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Councilor Morales moved to postpone Discussion and Possible Action – Joint Resolution of the Greentree and Otero County Solid Waste Authorities – Resolution No. 2013-05 Increasing the Tipping Fees at Regional Landfill. Seconded by Councilor Perry.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – To Schedule Public Hearing – Refuse Rate Increase – GREENTREE Solid Waste Authority.

Mayor Williams entertained a motion to postpone – Discussion and Possible Action – To Schedule Public Hearing – Refuse Rate Increase – GREENTREE Solid Waste Authority.

Councilor Morales moved to postpone Discussion and Possible Action – To Schedule Public Hearing – Refuse Rate Increase – GREENTREE Solid Waste Authority. Seconded by Councilor Perry.

H. John Underwood, City Attorney asked Debra Ingle to get with Mary with all of these issues including the rate increase so that she could give us the financial background.

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

Councilor Miller said July 17th would be a good date for her.

Mary Castaneda, Finance Director said the month of July is going to be very, very busy for her and she would be behind closed doors a lot. Trying to cram this in and look at all the figures and have everything together and have a good solid idea I just think that's going to be a lot of hurry up.

Carol Virden, City Clerk/Treasurer said I want to explain to the Council what Mary is going to be going through. During the 2nd and 3rd week of July she will be closing out the books for the 2013-2014 fiscal year as well as making the final budget adjustments. In order to present to the Council the final FY 2014-2015 Budget for the meeting on July 28th. So, what you are asking her to do is a person who likes to clearly look at it to make a presentation to the Council. Maybe July 17th is not going to work.

H. John Underwood, City Attorney said the first Council meeting in August is on the 11th so could we have a Special Meeting during the first week in August?

Mary Castaneda, Finance Director said I could be ready by then.

Carol Virden, City Clerk/Treasurer said all request and backup documents for agenda items are due on my desk by the Tuesday prior to the next weeks Council meeting no later than 10:00 a.m. She asked Debra if she could meet with Mary sometime after July 17th when she got back and prior to the August 11th meeting so that Mary would have all the information she needed to understand and make a good presentation.

Debra Ingle said she could meet on July 18th.

Mary Castaneda, Finance Director said 10:00 a.m. in her office would work.

Carol Virden, City Clerk/Treasurer said since we are going back and postpone for a Special Meeting now we have to go back and amend to reflect to postpone to the August 11th Council meeting.

Mayor Williams asked for an amended motion for Item D.

Councilor Morales moved to postpone Item D until the August 11th Council meeting.

Carol Virden, City Clerk/Treasurer said you need to amend your original motion.

Councilor Morales moved to amend her original motion to postpone Item D until the August 11th Council meeting. Seconded by Councilor Perry.

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

Mayor Williams asked for an amended motion for Item E.

Councilor Morales moved to amend her original motion to postpone Item E until the August 11th Council meeting. Seconded by Councilor Perry.

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

Mayor Williams asked for an amended motion for Item F.

Councilor Morales moved to amend her original motion to postpone Item F until the August 11th Council meeting. Seconded by Councilor Perry.

Roll call votes: Councilor Miller, Aye; Councilor Perry, Aye; Councilor Morales, 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.

Mary Castaneda, Finance Director said these numbers are preliminary for June 19th. Lincoln County Transit had a cash balance of \$35,830.80. They have brought in \$901.00 in revenues. Their expenditures were \$3,651.99 leaving an ending cash balance of \$33,079.81. The museum fund started with a beginning cash balance of \$68,970.62. They brought in revenues in the amount of \$8,084.92. Their expenditures were \$15,153.06 leaving an ending cash balance of \$61,902.40.

Mayor Williams said the DFA has accepted the Preliminary Budget for the City of Ruidoso Downs. Good job Mary.

There was a round of applause.

PUBLIC INPUT

Mayor Williams stated the next item on the agenda was - Public Input.

There was no Public Input.

ADJOURNMENT

There being no further business to Mayor Williams entertained a motion to adjourn. Councilor Miller moved to adjourn. Seconded by Councilor Morales. The meeting adjourned at 5:27 p.m.



Gary L. Williams, Mayor





Carol Virden, City Clerk/Treasurer