

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
SEPTEMBER 8, 2014  
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on September 8, 2014. Mayor Williams called the meeting to order at 4:30 p.m. and asked Steve Dunigan 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

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

Also present:

H. John Underwood, City Attorney  
Christopher Rupp, Police Chief  
Cleatus Richards, Public Works Director  
Mary Castaneda, Finance Director  
Steve Dunigan, Planning & Zoning Director

APPROVAL OF AGENDA

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

Mayor Williams said I would like to make the request to remove the item from the agenda under Unfinished Business - Agreement for Inmate Confinement between the City of Ruidoso and the County of Lincoln. The information is still being processed and it will probably be another two weeks before we bring it back again so that will be the meeting on September 22<sup>nd</sup>.

Mayor Williams entertained a motion to approve the agenda with that change.

Councilor Morales moved to approve the agenda with the removal of the item from Unfinished Business – Agreement for Inmate Confinement Between the City of Ruidoso Downs and the County of Lincoln and to have it brought back to the agenda for the September 22<sup>nd</sup> meeting. Seconded by Councilor Hood.

Roll call votes: Councilor Miller, Aye; Councilor Perry, Aye; Councilor Morales, Aye; Councilor Hood, 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 Miller moved to approve the Consent Agenda. Seconded by Councilor Perry.

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

#### APPROVAL OF MINUTES OF REGULAR MEETING OF AUGUST 25, 2014

Councilor Miller moved to approve Minutes of the Regular Meeting of August 25, 2014. Seconded by Councilor Perry.

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

#### APPROVAL OF ACCOUNTS PAYABLES

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

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

#### PUBLIC HEARING

Mayor Williams stated the next item on the agenda was – Public Hearing - PROPOSED ORDINANCE NO. 2014-03:

AMENDING TITLE XV: LAND USAGE; CHAPTER 155. TITLED “ZONING” SECTION 155.078 SUBSECTION “E” §155.078. NON-CONFORMING USES AND STRUCTURES.

Steve Dunigan, Planning & Zoning Director said we are before you tonight for a Public Hearing on proposed language amendments to the section of our ordinance specifically under non-conforming uses of structures in Section E. In the recommendation that we have visited about once before this is to change the 90-day which we perceived as a

fairly inflexible 90-day gap of lawful non-conforming use where it ceases to exist for a period of 90-days and that use would then have to come into conformity. In the situation that has arisen where there were horses on the property the 90-days was really not reasonable for the type of seasonal use that goes on quite often. Other people's uses where they may show that they had a use and the intent was always there, the historic use was always a part of the property and if there was a gap of over 90-days. What we're allowing for is a change from 90-days that if it exceeds 24 months then they can provide a track record of a lawful non-conforming use on that property then they may be able to apply for a conditional use approval before the Planning & Zoning Commission. The language that we're forwarding provides for that as long as they can follow the conditional use Section 155.027 and the requirements of that. We are also adding a reference language in our AR-1 with references to conditional use.

Mayor Williams opened the Public Hearing for comments.

Darien Ross said she would like to speak.

Carol Virden, City Clerk/Treasurer administered the oath as follows:

Do you solemnly swear and affirm that your testimony today will be the truth, the whole truth and nothing but the truth under penalty of perjury?

Darien Ross said I do.

Darien Ross said my question tonight is because of the verbiage here. We had talked about this several meetings ago about the conditional use and how it seemed to kind of lay up a lot of conversation about horses when in essence we found out eventually it wasn't just necessarily horses it was based on historical use of structures. For instance if there was a gas station and somebody bought it and they pulled the tanks out for 90-days then after that 90-day period tanks couldn't be put back in and used as a gas station, right?

H. John Underwood, City Attorney said correct.

Darien Ross said so it was also my understanding that if the property, and I think it was Ron Ritter that explained it, as far as the horse aspect of it, is if the property has sheds or pens or fencing for horses and if the horses were to be removed it wasn't necessarily that the horses were removed for 90-days it was the structures that were improvements if you will that were on that property when the horses left. It wasn't so much that the horses left it was that those improvements were still there. Now my question is with this new zoning verbiage will anyone who has pens or sheds or maybe commercial

property will everything fall into this category now? Is that new from this point on or is it just what's currently existing?

H. John Underwood, City Attorney said remember that this only applies to non-conforming in a particular zone in which under the zoning that use is not allowed.

Darien Ross and horses are allowed?

H. John Underwood, City Attorney said whenever there is a non-conforming use when that use ends and that property becomes zoned R-1 and doesn't allow for horses, if those people move or abandon the property and take their horses the structures remain but there is no use for that property as a horse property for 24 months, that non-conforming use is lost. That's the purpose of that and the reason we changed that is because the 90-day was seen as they might use it as the horse example again. If somebody leaves they will often leave for 90-days but they don't have any intention of terminating the use. If they leave for 90-days they often come back six months later and bring the horses back for the summer. What we're saying is they wouldn't have lost that use in that zoning. What we tried to do is if they came back and uses it for the same and puts horses back into that property they would under this change still be allowed to do that. If they came back and it had been a two year period of time that would be allowed under the conditional use with the 90-days.

Darien Ross said for instance I have some property listed on Park Lane and they have pens and sheds there and during the winter months they take their horses back to Texas. They've been coming back every summer even though it's been more than 90-days and now they don't have to worry about being non-conforming because it has to be two years now.

H. John Underwood, City Attorney said what I would do if I were in your situation is I would get an affidavit from those people that they bring their horses back and that you are listing that property that they bring their horses back every year so that if we ever have a question or a legal questions as to whether if I was selling to somebody else I would want to give them that affidavit.

Darien Ross said there was comment made in one of the subsequent meetings that if it was R-1 and had horses that it could not be sold as horse property but whoever bought that would have the option once they buy it to go to the Planning & Zoning and request permission for a conditional use.

H. John Underwood, City Attorney said I would make the sale contingent upon Planning & Zoning acknowledging that you came within the two years because the non-conforming use you want to prove every time.

Darien Ross said let me play out a scenario here just so I understand. So, you're selling your property and you have barns and sheds and you're selling it as horse property. I buy it. I come to you or to your realtor and say oh I'm interested in that property. We negotiate a purchase price and we come down to where we agree on a purchase price and then prior to closing I have to apply to the P & Z because I'm not going to close and then do it because what if they say no and then I have this property on my hands. So then I contact P & Z and tell them I'm trying to put horses on it. So now what? Do I have to wait three months, do I get the answer that day, will I have to wait for Council meetings and Planning & Zoning meetings? What kind of time frame are we talking about?

Steve Dunigan, Planning & Zoning Director said the process of a conditional use hearing and Planning & Zoning meets the first Tuesday of every month so it could take 45 days. The issue is a little confusing and if I may ask, if someone is buying a property that has had horses on it within the last two years that would be a continuing non-conforming use and wouldn't have to come to the Commission and go through this process only if it was after two years.

Darien Ross said as a buyer I would have to tack on an additional 45 days prior to closing because most of our closings are within 45 days. So when you purchased your home you had a home inspection done and within this contract you have these timeframes. The home inspections is between \$375 and \$400 and now I have to add another \$100 to apply for a conditional use and have to wait until after your Planning & Zoning Commission meeting and wait another 45 days to close.

Steve Dunigan, Planning & Zoning Director said a decision from the Planning & Zoning Commission could happen that night.

H. John Underwood, City Attorney said as an attorney the only reason I would want my client to have a letter from P & Z saying yes, this is a continuing conditional use property is that if a neighbor or someone else says no, there haven't been horses there for two and a half years. Then you have a dispute. I don't know if each one of those cost \$100 or not but I do know that it's a lot less burden than the 90-day rule.

Steve Dunigan, Planning & Zoning Director said the intent would not be to charge \$100 for an application that is ongoing.

Darien Ross said a lot of those fees change. For instance they did a deed search on Ms. Colt's property and there wasn't anything anywhere that came up that horses weren't allowed.

H. John Underwood, City Attorney said if they would have searched the zoning records of the district in which they were purchasing they would have found that out. Each time you're going to close a property in any jurisdiction I think it is the realtor's obligation and the title company's obligation to look for those zoning regulations.

Darien Ross said okay so I'm coming back to my scenario and your property, I go and I view that property and you have horses there with barns and sheds and pens, so I still have to go through that process even though I visually see that there's horses there?

H. John Underwood, City Attorney said I would want something from Planning & Zoning so that someone couldn't come back later and it be a she said he said. From a legal stance I would want proof in an official document from the City of Ruidoso Downs. I would have my buyer and seller go in jointly and make sure this continuing non-conforming use is granted.

Darien Ross said so we go through the process and then it's no. You can't have horses there and then I'm going to walk away from the deal and now your property's value has just decreased.

H. John Underwood, City Attorney said depending on who you are in this. The neighbor over here was counting on that being R-1 land and not having horses who has invested and bought the house six months ago based on it being R-1.

Darien Ross said I understand that but what I don't understand is kind of how this all came about it just so happened that my client went trail riding with Mr. Allgood and the two of them got to talking and it turned out that he had a situation similar to her situation and then he came down and talked to Carol several times. Apparently there was no documentation anywhere to show why that change was made. I'm going to pull a simple little example here. A child, when you are raising a child and you say don't touch the stove because it's hot and you'll burn yourself. So my question is what was the reasoning that changes, and I know Palo Verde was never zoned, how is it that these changes were made without a reason to support why it was changed?

Steve Dunigan, Planning & Zoning Director said around 2001 the zoning map in existence and with a copy of the Master Plan in 2004, from around the time the Master Plan was worked on is what we have today.

H. John Underwood, City Attorney said there is a zoning map that is adopted and that is a record.

Darien Ross said in 2001 if you had an individual on the Planning & Zoning Board who was anti-race track, anti-Hubbard, anti-horses and things like this happen then that decision could have been made on that one person or maybe two people.

H. John Underwood, City Attorney said obviously it was adopted by a majority.

Darien Ross said I've been coming to some of these meetings since this all came about and I have experienced some behaviors that I thought were extremely unprofessional by P & Z members where comments were made or decisions were thrown before the case was even heard. You know as a lawyer that often times when you stand before a jury and you're going through the facts of the case and something comes out that is stricken well then you say strike that, well that's still going to sit in people's minds. Decisions can still be made based on that even though you say strike that.

H. John Underwood, City Attorney said I understand what you're saying but everyone has a right to state their opinion. Whatever that process is and how it works it's the process we have. In the end that's how it becomes the law. The Council could come back and ask for a rezone of Ruidoso Downs if it wanted to. What we are trying to decide tonight is whether or not this particular issue as to a non-conforming use in R-1 is right for the sell community and the buyer community. Those who have bought based on R-1 and those who owned it prior to it being R-1.

Darien Ross said what I'm trying to understand is when I go back and report to the Board of Realtors I need to make sure I understand things. The first thing is from this point forward, I think it's voted on, any property that we have listed that may have fallen into that non-conforming use window or any future listings that we take that may fall into that non-conforming use window that it would make more sense up front to have the seller go to the Planning & Zoning Board and get something stamped stating there are animals here, there's business here, there's gas tanks here, whatever and that this property is sold with the understanding that that use is that use. My second question is when the 90-day non-conforming use was taken out and basically the City of Ruidoso Downs was functioning without that existing technically. If this 24-month verbiage gets voted on how are the existing properties or any properties that have been used that way fall into that or is that a separate thing?

H. John Underwood, City Attorney yes it is.

Darien Ross said for instance, and I'm going to use Ms. Kolt as an example, she has 1.8 acres up on Spring Rd. that has fencing. There is a barn up there with two stall barns with storage for feed. Where does that fall in here? Does that now fall into the 24 months? Does the clock start ticking now or do we go from ticking now to 24 months back to be able to prove that there were animals there?

Steve Dunigan, Planning & Zoning Director said the simplest task would be did it have a non-conforming or a lawful non-conforming use at the time the zoning ordinance was adopted and that's how you come to Section E. That use on that property if it could be verified in some fashion that there was horses at the time that we zoned the property then she has every right to apply for a conditional use. That happens by providing us with documentation that is existed.

H. John Underwood, City Attorney said she's asking if it's based on 90-days or two years.

Steve Dunigan, Planning & Zoning Director said if there has been a gap of over two years and there was horse use zoning as such on that property then she would apply for a non-conforming conditional use of that property for approval and state her case.

Darien Ross said the big thing here is to prove if we were to go out and take pictures of the structures since their old and pictures of the fencing is that enough evidence? Or do we go around and try to talk to a person or what?

Steve Dunigan, Planning & Zoning Director said I talked to the Assessor's Office and basically you have the County track property and it's really not residential properties that they keep track of but it's more acreage and commercial. I was able to get from him a source if this property was ever reflected as agricultural and assessed it as such and it was no. It would have to be the strength of the case. If you come to P & Z with pictures as past use, I mean people don't build a barn and stables and corrals for a different use than that. Affidavits from the owners, previous owner's maybe but to put together enough evidence in some fashion for your case. We will base our decision on what you provide.

H. John Underwood, City Attorney said I think there are two things here. One, is it a non-conforming use tied to zoning. The other is the use of the property for the past two years.

Wayne Williams said I have a friend who is a realtor and she wanted me to bring back what happened today because she couldn't be here. The question came up as the worst case scenario like the lady was talking about, if she was selling a piece of property and horses have not been there for two years and a day, she comes to Mr. Dunigan and says here's my hundred dollars and I want to come before your committee and get this back into operation. I happen to know for a fact that there are two people sitting on the committee that do not want horses in a residential area period no matter what the reason. They still have the opportunity to bring it back to City Council. They don't have to begin strictly on Mr. Dunigan or the committee. It may take them an extra two

months or three months to get it done. That's the questions I had so it's not cut and dry on the voting about the Planning & Zoning committee to approve or disapprove.

Kathy Kolt said she would like to speak.

Carol Virden, City Clerk/Treasurer administered the oath as follows:

Do you solemnly swear and affirm that your testimony today will be the truth, the whole truth and nothing but the truth under penalty of perjury?

Kathy Kolt said I do.

Kathy Kolt said the reason we are in this mess is because when the zoning happened everything was put in the newspaper or on the radio. We don't live in that world anymore. I've knocked on doors and talked to neighbors and nine out of ten do not know that we're here talking about this now. Mr. Morris who lives on the cliff behind me, he had a horse, it died, he's got the horse pens, he's got the barn. He's not looking for horses now, he's looking for doctors. A lot of my neighbors old and aren't into horses at all but when the die and leave their property to their kids they don't need their kids to get short-changed on the zoning of the property. I think all of this could have been handled a lot easier if registered letters could have been sent out to all of the owners. We're sitting here now and all of Ruidoso Downs and doesn't know we're sitting here now. They don't have a clue. They didn't have to pay anything when they were being changed and they might take the idea of why should I pay now? You changed it, you didn't ask me. Just some things to think about. If you pass this how long do I have to wait until I can get a true directive?

Steve Dunigan, Planning & Zoning Director said the process would take 30 to 45 days based on the application.

Kathy Kolt said I could get a letter from Mr. Ferrell who used to own the property.

Steve Dunigan, Planning & Zoning Director said I would advise you to come in and see me depending on the outcome tonight or either way to come in and see me and I'll spend some time and show you what is required and answer your questions.

Darien Ross said she would like to speak. She said one thing that I did have an impression about was that here in Ruidoso or Lincoln County probably 50%-75% of homeowners they don't live here so when changes are made like this and published in the paper that goes out twice a week I mean people come in here on vacation, Saturday they go out in front of Allsup's and there's a newspaper there and it says the Ruidoso News for Friday, they don't pick it up. In today's environment now more people go

online. They don't pick up the newspaper. Most of our buyers are e-buyers. This hearing was published in the newspaper but what troubled me about that was the hearing that was published about today and then the signs that you put up were over by Wood Ln. for the properties over on Wood Ln. that were being zoned back to AR-1. To me there is confusion and disconnect there. Maybe back in 2001 there were letters sent out but I know Mr. Ferrell who owned the property that Ms. Kolt purchased and owns the property and the other two pieces there that he never knew. He's from Arizona. He never knew that the property was being zoned different from what it was. I don't know if that's something that you guys might want to discuss about the way that you want to let people know. A lot of people weren't aware of it. So, shame on them right? Are you all homeowners here? How would you like it if you went to sell your house, like she said, they get older and they need to go back to family, they need to go for good medical services, and they put their house on the market to sell. How would you like it if your property was devalued \$20,000 to \$40,000? That's your retirement, that's your savings.

Mayor Williams thanked everyone for their comments and he closed the Public Hearing.

#### UNFINISHED BUSINESS

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - agreement for Inmate Confinement between the City of Ruidoso Downs and the County of Lincoln. This item was removed from the agenda and postponed until the next regular meeting on September 22, 2014.

#### NEW BUSINESS

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

Mayor Williams said I just wanted to remind the citizens of the community that we had a few weekends ago but we do have a Farmer's Market over here in the park. Some people are selling some great vegetables and fruits. If you have an opportunity drop by. It's Saturday's in the morning.

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

Councilor Morales said I would like to make a comment to the Police Chief. I was driving around on Labor Day weekend and I was very pleased to see our Chief out there directing traffic. I think it's been a while since we've seen our Chief out there in the midst of all that mess.

Councilor Miller said I saw you too.

Councilor Perry said I would like to welcome back Councilor Hood. It's good to see you and have you back.

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Adopting Ordinance No. 2014-03 Amending Title XV: Land Usage; Chapter 155. Titled “ZONING” Section 155.078 Subsection “E” 155.078 Non-conforming Uses and Structures with additional language.

Steve Dunigan, Planning & Zoning Director asked the Mayor and Council if they had any questions about this recommendation?

Councilor Miller said if there are horses on the property when someone buys it does the new owner still have to apply for this non-conforming use?

Steve Dunigan, Planning & Zoning Director said in our town there's a few properties that have a lawful non-conforming use already and we're pretty aware of who has horses and who does not. If somebody sells their property and the use never ceases there is no need to come before Planning & Zoning for a conditional use approval when that use has never had a two year gap or a change in the family or whatever the case may be. If it's been longer than two years it would trigger this conditional use possibility. We would find out through someone else or drive by and then we would start the communication.

Councilor Miller said apparently it goes along with the property as long as there are horses and barns being used.

Steve Dunigan, Planning & Zoning Director said Mr. Burrellsmith is a good example because we've known about and recognize a consistent use in the 90-days.

Councilor Hood said the Burrellsmith's bring horses in every year.

Carol Virden, City Clerk/Treasurer said what I hear through the Public Hearing process was to amend Title XV: Land Usage; Chapter 155, Titled “ZONING” Section 155.078 Subsection “E” 155.078 to remove the 90-days and insert 24 months. Is that correct so far?

H. John Underwood, City Attorney said yes, so far.

Carol Virden, City Clerk/Treasurer said also during the discussion there was a topic spoken of the 155.041 on a single-family residential district “C” Conditional Uses in the R-1 district with a new number (7) Non-Conforming Uses Subject to Section 155.078 and under 155.045 there is R-1 Agriculture/Residential district C-5. Non-Conforming Uses Subject to Section 155.078. Is that correct?

H. John Underwood, City Attorney said that's correct and the reason for that is when you change 155.078 to allow that non-conforming use to make that amendment you have to have that non-conforming use in R-1 and AR-1 so by necessity it will go to the subsection.

Carol Virden, City Clerk/Treasurer said with that when the Councilor's choose to adopt the amended No. 2014-03 be sure that you include 155.045 and 155.041.

Mayor Williams entertained a motion to adopt Ordinance No. 2014-03 Amending Title XV: Land Usage; Chapter 155. Titled "ZONING" Section 155.078 Subsection "E" 155.078 Non-Conforming Uses and Structures.

Councilor Morales moved to adopt Ordinance No. 2014-03 Amending Title XV: Land Usage; Chapter 155. Titles "ZONING" Section 155.078 Subsection "E" 155.078 Non-Conforming Uses and Structures with additional language specifically Section 155.041 single-family/residential conditional uses and Section 155.045 Agricultural/Residential district. Seconded by Councilor Hood.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Schedule Public Hearing for the Consideration and Adoption of the Flood Insurance Rate Map and Flood Insurance Study.

Steve Dunigan, Planning & Zoning Director said before the recommendation I would like to give a little background of how they got here. In 2010 FEMA initiated an update to our existing flood zone and flood mapping including Lincoln County, the Village of Ruidoso and other communities. We were pleased that it had taken place and we had a map from 1982. It was a welcome update and they hired URS and other sources to collect data. We went through the final appeal period for that map and they had put out a preliminary map on December 16, 2011. FEMA actually agreed there had been some errors made. They stopped the process and asked us to bear with them while they did a rescan. They looked at a certain stretch of our river within the Rio Ruidoso and did find significant errors in their computations and map. This went on until January 25, 2013 and another preliminary map was issued. After that map was issued there were some issues there were requirements that were met by FEMA and we had to advertise in the Ruidoso Free Press and the Ruidoso News, twice in each newspaper. We mailed letters on July 10, 2013 and then again just recently in July of 2014 to approximately eighty property owners. The appeal period of ninety days has since expired and during that period FEMA signed an affidavit to stop that process and reconsidered amending that map. We did a staff review along with the person who initially found the error. We felt that some of these flood zones were lighter and more than the original map that had the errors and we were concerned enough to hire an outside contractor. We felt very strongly about this. We invested the time and money to hire a consultant out of Albuquerque. They sent back a letter that they reviewed all hydrological

conditions. There was a whole list of what they checked. That brings us again to the current ninety day appeal period on this newest map that has ended and now we're at the point where we need to adopt these updated maps by the effective date of November 5, 2014. So we're at Public Hearing initiating and I recommend we take the advice of the consultant of what FEMA produced. Once this is approved we will have to let Region VI know and at that state level that we are in compliance.

Mayor Williams stated the request made by staff is to schedule a Public Hearing to adopt this updated flood insurance rate map and flood insurance study.

Carol Virden, City Clerk/Treasurer said I have on my calendar to issue a Notice of Intent for the Proposed Ordinance 2014-06 and schedule public hearing for Tuesday, October 14<sup>th</sup>.

Mayor Williams entertained a motion to approve - Schedule Public Hearing for the Consideration and Adoption of the Updated Flood Insurance Rate Map and Flood Insurance Study.

Councilor Miller moved to approve - Schedule Public Hearing for the Consideration and Adoption of the Updated flood Insurance Rate Map and Flood Insurance Study. Seconded by Councilor Morales.

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

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Awarding Bid - Agua Fria Estates Wastewater Collection System - Phase I - Subject to Construction Program Bureau Approval.

Cleatus Richards, Public Works Director said finally we are getting a contract for construction of the sewer system in the Agua Fria area. We started out with five bids and ended up with three. Gallardo Construction, LLC was the initial apparent low but they failed to list any sub-contractors which by state law mandates that we consider their bid non-responsive. A third bidder had some substantial errors, total construction service and because of those errors they withdrew their bid. Renegade Construction is now the qualified low bidder and they were at \$749,945.63. Staff is recommending that we award the contract to Renegade Construction for the base bid and bid additives 1 through 4 for the total contract amount of \$699,476.36. We are withholding award on additive 5 & 6 in the amount of \$50,000 to maintain a contingency factor for potential changes that might occur during the work. If those do not develop we can always add those items back on later through a change order in the contract so we get all of the work done. I would feel much more comfortable at this point in holding back the \$50,000 as a contingency fund for unforeseen events during the contract. When I set up the original memorandum I had indicated that we should approve subject to terms of the Construction Program Bureau. They have now determined since none of their money is going to be used in construction

that they do not have to approve the bid. All of their money of the \$140,000 that came from Construction Program Bureau went to engineering fees.

Councilor Hood said on the award to Renegade how long will it take them to start the job?

Cleatus Richards, Public Works Director said it take approximately ten days for them to get their bonding and insurance and other coverages so that we can have a pre-construction conference and immediately following pre-construction we will issue a notice to proceed so about 10-15 day out we should be ready to start construction.

Councilor Morales said my comment was when they to approve the bid do we make it for the \$749,000 or do we make it for the \$699,000?

Cleatus Richards, Public Works Director said the \$699,000. The amount that is to be awarded at this time is the base bid plus additive 1 through 4 in the amount of \$699,476.36.

Mayor Williams entertained a motion to approve - Awarding Bid- Agua Fria Estates Wastewater Collection System - Phase I to Renegade Construction.

Councilor Morales moved to award the contract to Renegade Construction, LLC for base bid and additive 1 through 4 for \$699,476.36. Seconded by Councilor Hood.

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

#### OTHER BUSINESS

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

Mary Castaneda, Finance Director said Lincoln County Transit had an ending cash balance of \$15,301.84 and revenues of \$5,383.66. They had fare revenue of \$1,046.00 and grant reimbursements of \$4,337.68. The expenditures were \$7,937.09 leaving them with an ending cash balance of \$12,748.43. The museum had a beginning cash balance of \$47,431.14 and had revenues of \$18,949.86. They had \$50,000.00 from the Hubbard Foundation. Their expenditures were \$27,537.60 leaving them with an ending cash balance of \$88,843.40. These are tentative figures.

#### 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 adjourned the meeting at 5:45 p.m.

*Gary L. Williams*  
\_\_\_\_\_  
Gary L. Williams, Mayor



*Carol Virden*  
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Carol Virden, City Clerk/Treasurer