

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
OCTOBER 14, 2014
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on October 14, 2014. Mayor Williams called the meeting to order at 4:30 p.m. and 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 (via teleconference)

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

Also present:

H. John Underwood, City Attorney
Cleatus Richards, Public Works Director
Mary Castaneda, Finance Director
Steve Dunigan, Planning & Zoning Director
Janis Rowe, Associate Director HMAW

APPROVAL OF AGENDA

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

Mayor Williams entertained a motion for Approval of Agenda.

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

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 said I would like to remove under Unfinished Business Item 9A and under New Business Item 10K for clarification from the Finance Director and Item 6 and Item 7 will be approved separately.

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

Councilor Morales moved to approve the Consent Agenda with the removal of Item 9A under Unfinished Business and Item 10K under New Business and that Item 6 and Item 7 to be approved separately under the Consent Agenda. Seconded by Councilor Miller.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF SEPTEMBER 22, 2014

Councilor Morales moved to approve Minutes of the Regular Meeting of September 22, 2014. Seconded by Councilor Miller.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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

PUBLIC HEARINGS

ORDINANCE NO. 2014-05

An Ordinance Amending Title V: Public Works; Chapter 52. Sanitation; Garbage and Refuse; Appendix A: Schedule of Collection Fees of the city of Ruidoso Downs Code of Ordinances.

Mayor Williams invited Joe Lewandowski to speak.

Joe Lewandowski said he had a Power Point presentation and copies for hand-outs. I went into great detail when I was here before so for the public benefit I'm going to hit on the key topics. On page two: Service Level - as we discussed before there was a lot of confusion about why Carrizozo's rate is what it is versus Capitan versus Ruidoso Downs. This chart simply shows you that Greentree does provide more services for your City more than they

do for the other villages in town. That explains why the rates are different types. You do have a yard waste program here and Capitan and Corona don't. Tonnage is also factored in when coming up with these rates. Page three has that information. Page four also has rates and services and one thing I want to point out is that no one is subsidizing anyone else. There has been no rate change since 2009. Page six is the calculations for the total rate adjustment. The current base rate is \$18.50. The landfill rate increase would be about .05 more per month. The CPI is approximately .40. Debt Service is .80 and the fuel surcharge will remain the same and then the administrative fee is currently .35 but as discussed before it's up to you on what you want to do on that. Alto is the only one not involved any longer.

H. John Underwood, City Attorney said on the rate adjustment you had testified on this the fact that Lincoln County was no longer a player with you and that you want to increase the cost because of this. It is specifically related to the debt service requirement. The debt service requirement stays the same and yet you have less people to pay that debt service requirement. Is our debt service payment greater now that Lincoln County is not involved.

Joe Lewandowski said Lincoln County is still involved. So your question about the 500 homes in Alto that aren't being collected from what about the debt service they would have been paying? That is being absorbed through other fees that the authority has and the other revenue sources.

H. John Underwood, City Attorney said so Lincoln County is still in but we all know that they're saying they are not going to be in much longer. If that in fact is the outcome will that have an effect on our debt service payment?

Joe Lewandowski said no. We've already done our worst case scenario and what would happen. The reason the withdrawal of Lincoln County would have a minimal impact if done properly the problem is you can't just walk away. If Lincoln County were to withdraw there is a certain way to do it and it must not cause harm to the other members. Ruidoso did it the right way and it took almost two years.

H. John Underwood, City Attorney said if the County does not do it properly does Greentree Solid Waste have an obligation to the remaining members to notify them that if Lincoln County doesn't close a certain way will you notify the members that it may have an adverse effect so they can become members of that lawsuit too?

Joe Lewandowski said yes and we hope it doesn't come to that. Right now it's just working out the terms. On page nine there is payroll and Greentree is not running around with a lot of money giving big pay raises. Since this started with Lincoln County in 2012 the board has agreed not to give any raises until this is resolved. The County has brought up a few things such as taking away the uniform allowance, taking away the insurance which we can't do, and taking away the retirement fund and we can't do that either. The next few pages are a whole lot of numbers about each job position. This helps us stay in the range with other authorities. Page eighteen is basically where the rate adjustment is currently.

H. John Underwood, City Attorney said when we were last together we had a handout from you guys you said there was pay increases and in this document you say there isn't.

Joe Lewandowski said that's my error. He said only the drivers were adjusted and it was market driven.

Mayor Williams opened the Public hearing for comments.

Wayne Williams said I have some questions. I was here during that three hour meeting and the more I thought about it the more I got confused. Let me say that I'm really pleased with the service I get now. At the last meeting it was said publicly that you didn't have a choice about the increase in rates. You guys really had a hard time coming to a decision on that. This gentleman here says you are obligated in your contract agreement it says you are obligated under law to do no harm.

H. John Underwood, City Attorney said I think what he was speaking of in that was do no harm when exiting.

Wayne Williams asked in just the exiting? Because I was going to say that I believe we have done some harm as far as the contract is concerned when we own 50% of the refund and got 40%. That's doing harm and I still disagree with that. The other thing is that I know that you really don't have a choice on the dump site because with the Joint Use Board when and increase comes you have to agree by it. That being said I believe there are two separate entities here. You've got the dump site and then you have the collection part. In the past I know this town put up money to build that place down there. A lot of money went to that out of your budgets. Also in the past you had to vote to do a fuel increase. If it's controlled by the dump site and you don't have a choice or a say in what the rates are then why did you have to vote for a fuel increase? They can just increase their collection rate any time they please and I don't think that right. It's two separate entities and the dump site charges by the tonnage but the collection thing is different. It's a separate entity that this City helped to build. When you say that you don't have a choice in rates, I just want you all to understand that you do have a choice in the rate increases as far as the collection goes and I still disagree with the disbursement and how it was done. I still say a contract is a contract. When you say this town and this town dumps so much it's not fair. Life is not fair. The deal was made for 50%.

Pam Williams said I was listening and the payrolls and how you're comparing us to other businesses. Everything is being compared and then everyone is going to the oil field. Well, there's a big difference between that and trash and lawyers and everyone else. To compare it is not right to me. It doesn't wash. I, over the last few years, have noticed that my bill has gone up. I'd have to go back and pull them apart and I will if you want but I know it has. I started out paying \$26 something and now it's \$42 something. I don't know where it's going to because I only pay sewer and trash. The last contract you had said it was going to

go up every year and I was under the assumption were your CPI from 2014 and I think we're paying it.

There were no other comments.

Mayor Williams closed the Public Hearing.

ORDINANCE NO. 2014-06

An Ordinance Amending Title XV: Land Usage : Chapter 154: Flood Hazard Regulations Section 154.07 Title "Basis for Establishing Areas of special Flood Hazard of the City of Ruidoso Downs Code of Ordinances."

Steve Dunigan, Planning & Zoning Director said one of the requirements of the City of Ruidoso Downs to be a member of the NFIP (National Flood Insurance Program) is that we maintain and adopt Flood Plain management regulations that meet standards of paragraph 60.3 D of the NFIP regulations. We are mandated to stay up with the latest Flood Insurance studies and rate maps so when we had proposed to the City back in 2010 it was the first update since 1982. There are federal grants that would not be available to us any longer if we weren't a member and we would receive disaster relief. I think there is enough benefit to be a part of this program. Steve said they send out letters to all property owners who are effected by flood zones and I would encourage anybody who is even near those areas to come in to review the maps and get information.

Wayne Williams said so what you are saying is that if the whole City doesn't agree to this that me as a personal property owner cannot get flood insurance? The insurance I get is not from the City. You have to buy it from the federal government because private insurance does not carry flood insurance.

Steve Dunigan, Planning & Zoning Director said the issue is that if we are a member as a community the federal government will provide us with the best rates and if you have questions please come in. These maps would be available to look at in my office.

Pam Williams said I can see it and I know where I live and I know what's going on. We did have problems in the Garden Subdivision but there were reasons for it. Great reasons because of Planning & Zoning we had a natural flow from the mountain back we had roads and we discussed this with you many times and got nothing out of it. All of a sudden they gave this woman clearance, they gave her the whole street. That was illegal. It should have been halfway went to one neighbor and halfway went to the other neighbor. So, the whole thing was turned so now we turn the water uphill and go around the mountain and go around that woman. She put her horse corral in these people's kitchen window. It's called the hate wall in the neighborhood. That was the reason the woman across the street, Mrs. Hawn, had just bought this property and the day she was moving in we had the flood. Nobody had taken care of the river. I worked in the Upper Canyon and I watched

everything boil down and then houses taken. Well, we've let people abuse our environment. Me, on here, right up to the back of my property and then up to North Lane. What you've done to us now after the flood is you went down to the end of North Lane and diverted the water and you took the side of Mrs. Day's house and just built a gorge and it has taken that woman's property and other people's property from them and now it comes down the back of our house. Now everyone gets in a big wad and tilts the road back to us. It's garbage. The river is so far down there and when the flood in 2008 came it kept boiling and boiling and taking all these people's property and houses and there was a bridge just down the road from us and that went into it. That should never have been there. Didn't people see it was there? Isn't that people's job to see what's there? We just keep doing and so now we have to pay extra because we're in a flood zone. You've changed all the natural flows and we're going to pay for it. What you've done is illegal because it took that road and went all the way to the river. Everyone keeps digging into it and into the forest and you've built a big ditch that tries to help. If everybody had left things alone Mother Nature has it's way and you will not divert it. You cannot change Mother Nature.

There was no other comments.

Mayor Williams closed the Public Hearing.

UNFINISHED BUSINESS

Mayor Williams asked Mary Castaneda, Finance Director to explain the other items from the Consent Agenda

Mary Castaneda, Finance Director asked if they were able to look at the invoices and the email that was attached? The reason July's invoice is on now is that I received it dated November 5th and had responded to the Village of Ruidoso and questioned the administrative fees on this invoice. I asked them where they got the sources of \$41,439.00 and waited for their response. Since that time I went ahead and created a spreadsheet and showed proof of what I believed the administrative fees are to be charged and that spreadsheet is attached and that's how the calculation is. I had adjusted the invoice to reflect these changes on both the July and August invoices. I am asking for approval for payment of these invoices with the knowledge that when we get with Ruidoso and sit down and that any changes of these administrative fees will come back to the Council.

Councilor Miller said I'm glad you caught this.

Mary Castaneda, Finance Director said that is a total of \$8,904.41 for the full year which is \$742.03 per month.

Mayor Williams entertained a motion to approve Item 9A under Unfinished Business and Item 10K under New Business.

Councilor Miller moved to approve the Finance Director's figures and to approve Item 9A under Unfinished Business and Item 10K under New Business. Seconded by Councilor Hood.

Carol Virden, City Clerk/Treasurer asked if they were voting on both issues?

Mayor Williams said we will separate them out. He asked City Council to approve Item 9A under Unfinished Business - Discussion and Possible Action - Wastewater Treatment Plant Operating Invoice for July 2014.

Councilor Miller moved to approve Item 9A under Unfinished Business - Discussion and Possible Action - Wastewater Treatment Plant Operating Invoice for July 2014. Seconded by Councilor Perry.

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

Mayor Williams entertained a motion to approve Item 10K under New Business - Discussion and Possible Action - Wastewater Treatment Plant Operating Invoice for August 2014.

Councilor Miller moved to approve Item 10K under New Business - Discussion and Possible Action - Wastewater Treatment Plant Operating Invoice for August 2014. Seconded by Councilor Perry.

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

NEW BUSINESS

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

Mayor Williams said I do want to remind citizens that it is the fall season and is drying up out there and to continue being cautious with fire and the forest.

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

Councilor Miller said we do have our Toss No Mas Cleanup this weekend on the 18th from 8:00 to Noon at All American Park and the Tailgate Flea Market so if you have anything to sell just set up. Also we'll be having some prizes and lunch at noon for the volunteers that helped pick up trash. This is also a recycling event.

OTHER BUSINESS

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Approval of Agenda Briefing Memorandum – Planning & Zoning Commission – Schedule Public Hearing – Rezoning Changes Six Properties on Wood Lane from R-1 to AR-1.

Steve Dunigan, Planning & Zoning Director said the Planning & Zoning Commission was tasked with looking at an area of our community that was thought to have been zoned incorrectly. The area in question is along Wood Lane and there is actually five property owners and six properties. The basic history on this is with the historic use of properties as horse properties and the fact that they are abutting AR-1 properties. We would like to recommend moving forward with Public Hearing to rezone these specific properties to AR-1 instead of the R-1 that they are now.

Mayor Williams entertained a motion for Approval of Agenda Briefing Memorandum – Planning & Zoning Commission – Schedule Public Hearing – Rezoning Changes Six Properties on Wood Lane from R-1 to AR-1.

Councilor Miller moved to approve Agenda Briefing Memorandum – Planning & Zoning Commission – Schedule Public Hearing – Rezoning Changes Six Properties on Wood Lane from R-1 to AR-1. Seconded by Councilor Perry.

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 – Resolution No. 2014-18 Authorizing Signatures SAP 14-1651 STB Agreement with NM Environment Department.

Cleatus Richards, Public Works Director said an approval of Resolution No. 2014-18 will authorize the Mayor to execute and approve it by which we will receive \$150,000 to do the initial design for the Agua Fria Water system.

Mayor Williams asked Cleatus where we were getting that from?

Cleatus Richards, Public Works Director said from legislative appropriation.

Carol Virden, City Clerk/Treasurer said the SAP 14-1651 should be instead of ASP grant.

Mayor Williams entertained a motion to approve Resolution No. 2014-18 Authorizing Signatures SAP 14-1651 STB Agreement with NM Environment Department.

Councilor Morales moved to approve Resolution No. 2014-18 Authorizing signatures SAP 14-1651 STB Agreement with NM Environment Department. Seconded by Councilor Miller.

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 – Adoption of Ordinance No. 2014-05 An Ordinance Amending Title V: Public Works: Chapter 52. Sanitation; Garbage; and Refuse; Appendix A: Schedule of Collection Fees of the City of Ruidoso down Code of Ordinances.

Mayor Williams said Council you have heard the original presentation. Do you have any questions?

Councilor Miller asked to explain the CPI and if that will continue to grow yearly?

Joe Lewandowski said the CPI is calculated into the rate as a one-time for this year. I know that you've adopted as do other cities to factor in to your utility billing.

Councilor Miller asked if it depends on the rate like you said it increased 2.1%?

Joe Lewandowski said CPI last year based on the Consumer Price Index which is compiled by the government.

Councilor Miller said every time it increases we have to raise ours?

Joe Lewandowski said no. We're just asking that because of cost of operations and living has gone up 2.1% in 2014 so we're only asking that on this currently.

Councilor Miller asked if any of this \$1.25 going to increase without us knowing it?

Joe Lewandowski said no and we would have to come to you and go through the process again.

Councilor Miller said you say we get so many more services. The yard waste pickup? How much are we paying for that?

Debra Ingle said \$1.25 per month.

Councilor Miller said not all of our residents use that. That's what kind of bothers me.

Joe Lewandowski said we help the City establish their rates, we don't set them. In this column with all the "x's" this is what it cost to provide those services. You can elect not to have those services. You made a good point in that not everybody uses those yard waste services. You as a Councilman can say we don't want that calculated into everything and make it an on-call service where they can call in directly for that service. It would be up to the Council to determine the service level they want for their community.

Councilor Morales said I personally want the yard pick up.

Mayor Williams asked Mary Castaneda what the City gets for the charges?

Mary Castaneda, Finance Director said .35 per customer and that is per month. We're billed, we collect and then we take how many residential carts we have. That figure is around 700 and it fluctuates every month. We take that actual figure and multiply it by .35 and then we take that credit every month. That was by ordinance I believe.

Carol Virden, City Clerk/Treasurer said the .35 is set for providing the service for the City of Ruidoso Downs to do the billing. That was done in May or June 2001.

H. John Underwood, City Attorney said I believe that was by agreement with both parties.

Carol Virden, City Clerk/Treasurer said I would have to go back and do some research but if was a Council decision at the time to have the City to provide that service for doing the billing for .35 then it is valid.

Mary Castaneda, Finance Director said that yes we take that .35 for doing the billing but that is tacked onto the billing. It is going to increase the rate. Hypothetically if we accept this increase and then we want to increase our administrative fee that's going to increase their bill from \$19.74 to \$20.74 and yes the City will take the credit in the end but we will pay for it up front.

Mayor Williams entertained a motion to adopt Ordinance No. 2014-05 An Ordinance Amending Title V: Public Works; Chapter 52: Sanitation; Garbage and Refuse; Appendix A: Schedule of collection Fees of the City of Ruidoso Downs Code of Ordinances.

Councilor Miller moved to adopt Ordinance No. 2014-05 An Ordinance Amending Title V: Public Works; Chapter 52: Sanitation; Garbage and Refuse; Appendix A: Schedule of collection Fees of the City of Ruidoso Downs Code of Ordinances. Seconded by Councilor Morales.

Carol Virden, City Clerk/Treasurer said can we take the increases as requested by Greentree Solid Waste and the Ordinance one by one so the audience members know where the increases are coming from.

Councilor Morales said if we as a board decide to approve this tonight I do agree with Councilor Miller that we do need to look at the yard waste pick up. At some point we need to get with Director Richards and see what is out there. So many people don't use it.

Carol Virden, City Clerk/Treasurer said I do have a question. The residential units are a standard rate of \$18.50. In that, is the \$1.25 for the yard waste pick up. I just need to make

that clear in case Council at some point in the future comes back and says Carol I want you to schedule a Public Hearing on specifically the yard waste so they reduce it and they reduce it from the proper line item.

Councilor Hood asked how much it will go up?

Carol Virden, City Clerk/Treasurer said \$1.25.

Councilor Hood said \$1.25 for twelve years.

Carol Virden, City Clerk/Treasurer said until such time either the Greentree Solid Waste representative and/or the Governing Body comes and makes a request for a Public Hearing to either reduce or increase.

H. John Underwood, City Attorney said there is no specific time.

Carol Virden, City Clerk/Treasurer said there is no set deadline for the increase. It just continues until such time as the Governing Body decides to make a change in the future.

Mayor Williams said individually you have a total rate adjustment requested to approve the rate increase from the basic rate of \$18.50 to \$19.75.

Mayor Williams asked Carol if she wanted to do this individually to the adjusted base rate?

Carol Virden, City Clerk/Treasurer said the residential unit would be \$18.50 but if you take the .35 and add it to that it is \$18.85. Is that correct?

Joe Lewandowski said yes.

Carol Virden, City Clerk/Treasurer said the actual increase is \$1.25. So, that would be the landfill rate adjustment of .05, the Consumer Price Index of July 2014 of .40 as well as the debt service requirement for the City of Ruidoso Downs of .80.

Mayor Williams said explaining it that way do you want to go ahead and do the whole thing as \$19.75 or approved each individually?

Carol Virden, City Clerk/Treasurer said yes.

Mayor Williams said right now the current base rate is \$18.50 and I would like a motion to approve the landfill rate adjustment of .05 to that basic rate. Is that how you want to do it?

Carol Virden, City Clerk/Treasurer said no sir. I just wanted each line item on the motion that you are requesting to adopt Ordinance No. 2014-05 Amending the Schedule of Collection Fees as follows: the standard residential standard rate per unit is \$18.50, the

landfill rate adjustment of .05, the CPI for July 2014 at .40, the debt service requirement of .80, as well as the administrative fee to the City of Ruidoso Downs of .35 for a total increase of \$1.25 for a total of .22.

Mayor Williams entertained a motion to adopt Ordinance No. 2014-05 An Ordinance Amending Title V: Public Works; Chapter 52, Sanitation; Garbage and Refuse; Appendix A: Schedule of Collection Fees of the City of Ruidoso Downs Code of Ordinances and identified as the standard residential standard rate per unit is \$18.50, the landfill rate adjustment of .05, the CPI for July 2014 at .40, the debt service requirement of .80, as well as the administrative fee to the City of Ruidoso Downs of .35 for a total increase of \$1.25 for a total of .22.

Councilor Miller moved to adopt Ordinance No. 2014-05 An Ordinance Amending Title V: Public Works; Chapter 52, Sanitation; Garbage and Refuse; Appendix A: Schedule of Collection Fees of the City of Ruidoso Downs Code of Ordinances and identified as the standard residential standard rate per unit is \$18.50, the landfill rate adjustment of .05, the CPI for July 2014 at .40, the debt service requirement of .80, as well as the administrative fee to the City of Ruidoso Downs of .35 for a total increase of \$1.25 for a total of .22. She said she would move to adopt only if they were able to do something in the future about the yard waste fee.

H. John Underwood, City Attorney said it's the City's ordinance and they would have the opportunity to change it at any time that it chooses. Your motion should be simply to approve the increase without the contingency.

Councilor Miller moved to adopt Ordinance No. 2014-05 An Ordinance Amending Title V: Public Works; Chapter 52, Sanitation; Garbage and Refuse; Appendix A: Schedule of Collection Fees of the City of Ruidoso Downs Code of Ordinances and identified as the standard residential standard rate per unit is \$18.50, the landfill rate adjustment of .05, the CPI for July 2014 at .40, the debt service requirement of .80, as well as the administrative fee to the City of Ruidoso Downs of .35 for a total increase of \$1.25 for a total of .22. Seconded by Councilor Morales.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Adoption of Ordinance No. 2014-06 An Ordinance Amending Title XV: Land Usage : Chapter 154: Flood Hazard Regulations Section 154.07 Title “Basis for Establishing Areas of Special Flood Hazard of the City of Ruidoso Downs Code of Ordinances.”

Councilor Morales said Steve, you had all of these Flood Plain maps out here. Are these people directly impacted in the Flood Plain, are they notified when the changes are made prior to coming to a Council meeting and having the get upset?

Steve Dunigan, Planning & Zoning Director said traditionally the citizens that live in a Flood Zone are not notified on a regular basis whenever there was a change. We did make two efforts in mailing a letter to specifically identified property owners that would be in these hazard areas. There were about eighty six letters each time.

Councilor Morales said but you are notifying them that they can come in and look at those maps prior to the Council meeting?

Steve Dunigan, Planning & Zoning Director said we didn't send a letter saying prior to this meeting. This has been a blank invitation. The letters we sent go several months back and it is stated in the Agenda Briefing. We did encourage them to come in and also contact their insurance agent. There should be no one that was left out or surprised by this.

Councilor Morales said bear with me but you said this process started in 2010. It just seems to me that if you have a Flood Plain it is pretty much going to be along the river. It seems to me that you could let the residents know that you've got this Flood Plain, we've worked on it and people can get on the website and so on but I'm not so sure that it there was something up by my house that I wouldn't pay attention to even though it affected me and then I'd be madder than a wet hen that you did it. My only question is were these people told that there was a possibility of their insurance going up or their being on the Flood Plain?

Steve Dunigan, Planning & Zoning Director said I appreciate what you're saying and that it's only right that we communicate any changes like that. FEMA, in addition to us ran newspaper ads for the period during the mapping and asked for them to respond. Those were run 7/17, 8/21, and 8/28/2013. You can't mail enough letters and we did mail letter twice that there were going to be pertinent changes. The first time was in 2010 but then again more recently because this new map was updated.

Councilor Miller said you just received the new map so all the properties have changed and a lot of them may not have gotten notification right?

Steve Dunigan, Planning & Zoning Director said on July 10th mailed a letter in 2013. Could we have done more? Perhaps hand-delivering maps? We could have done that but the ads in the newspaper and the letters we sent are traditionally what has been done. We don't want anyone to be left out or not understand the flood zone maps.

Councilor Miller said listening to you a while ago I thought well my goodness people that had flood insurance and now people who haven't had flood insurance have to get it because of this change they need to be notified. This could be detrimental to their livelihood.

Steve Dunigan, Planning & Zoning Director said people that own property who live in a flood zone they either have insurance or don't and once they apply for federal backing for mortgages. The requirements at the bank are that you have flood insurance. One of the reasons we want to keep up with being a member of the NFIP is that it is recognized with having the best information available and banks and other lending institutions recognizes the FEMA flood zone maps as the best information available. This latest change is not to have people have to buy flood insurance it's simply that we are putting out an updated map.

Councilor Miller asked if this was the first hearing on this today?

Steve Dunigan, Planning & Zoning Director said Planning & Zoning had their hearing and came before Council with their recommendations and they were put on the agenda to now have a Public Hearing.

Councilor Miller said so what you're saying is there could be another Public Hearing?

Carol Virden, City Clerk/Treasurer said I believe it was the first meeting in September that Planning & Zoning had made a recommendation to City Council to schedule a Public Hearing specifically for the establishing areas of special flood hazard zones. Council approved and directed me to schedule that hearing that is before you that takes action either to adopt or not adopt the ordinance as written. The only change on this besides the maps that Planning & Zoning didn't really have much to do with besides FEMA. The only date at hand is November 5, 2014 where this information has to go back to Planning & Zoning who then forwards this to FEMA.

Steve Dunigan, Planning & Zoning Director said FEMA wants to see that we adopted the latest flood information prior to the date of November 5, 2014.

H. John Underwood, City Attorney said it is my understanding that we are between a rock and a hard place. The study is done by FEMA and if we don't adopt those maps then we are not in compliance with the program. The problem is that you are adopting a plan drawn up by the Federal Emergency Management based upon their studies. The last time we had a flood plain that was adopted was 2011. After that we either asked them or they went out on their own and reviewed that study. We then hired an engineering firm to review the new study and they came back and said it was basically correct. When was the new study completed?

Steve Dunigan, Planning & Zoning Director said the preliminary maps came out in January 2013. Over a period of several months there was requirement of a 90-day appeal period. It took a while before that appeal period started.

H. John Underwood, City Attorney said when you talk about an appeal period does the federal government send out notices to the effected home owners or does the City?

Steve Dunigan, Planning & Zoning Director said there is no requirement either way. We did it voluntarily. FEMA was required to take ads out in local news media.

H. John Underwood, City Attorney asked did we or they ever have any Public Hearings with the maps on the wall for people to come view?

Steve Dunigan, Planning & Zoning Director said FEMA never represented any Public Hearings. There were workshops.

H. John Underwood, City Attorney asked if during those workshops were those maps presented?

Steve Dunigan, Planning & Zoning Director said yes.

H. John Underwood, City Attorney said were there people who came that would protest or discuss?

Steve said no, it wasn't open to public input.

H. John Underwood, City Attorney said what I'm trying to establish is that it wasn't a Public Hearing so the concern that I'm hearing is has there been enough opportunity for the public to have input into these maps. Then the other question comes even if they did we have reviewed the maps with an engineering firm and they are what they are and if we don't adopt them within a certain period of time we are no longer members of the federal flood plains insurance program and our citizens are deprived of the rights that come with that including mortgage rights. Within all of this it is our government trying to help us.

Councilor Miller said eighty six residents is a large amount of people and I think FEMA neglected to come here and show the maps or the engineering firm or someone should have done this for us. How long do we have to get this done?

Steve said they would like to see it prior to November 5, 2014.

Councilor Miller asked if that could be delayed so the people could see?

Steve said no. I don't think it could.

Councilor Morales asked how long this was set for?

Steve said we would have to go through the process again and I could get that information to the Council or you could voluntarily step out of the program.

Councilor Morales said personally I don't feel the people were totally notified with the flood plain and now we only have until November 5th to submit these.

Councilor Perry said as Steve pointed out there were three letters sent to these people

Steve said two letters and the newspaper ads.

Councilor Perry said there was enough notice. How much more could he do except go door to door. If they didn't take notice of the two letters he sent already they aren't going to take notice even if you put out another one.

Councilor Morales asked if these letters were sent regular or certified mail?

Steve said regular mail based on how many there were.

Councilor Miller said what you said Steve was that the flood zone has really extended compared to what it used to be.

Steve said the thing was that there were errors in their mathematics and engineering in the maps of 2011.

Mayor Williams entertained a motion to adopt Ordinance No. 2014-06 An Ordinance Amending Title XV: Land Usage: Chapter 154: Flood Hazard Regulations Section 154.07 Title "Basis for Establishing Areas of Special Flood Hazard of the City of Ruidoso Downs Code of Ordinances."

Councilor Perry moved to adopt Ordinance No. 2014-06 An Ordinance Amending Title XV: Land Usage: Chapter 154: Flood Hazard Regulations Section 154.07 Title "Basis for Establishing Areas of Special Flood Hazard of the City of Ruidoso Downs Code of Ordinances." Seconded by Councilor Miller.

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

Mayor Williams call for a 5-minute recess and called the meeting back to order at 6:37 p.m.

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Special Dispenser Permit License Application - 25th Lincoln County Cowboy symposium October 9-11, 2014 (Retroactive).

H. John Underwood, City Attorney the technical legal procedure that needs to happen on these is that it needs to come to Council. The Mayor does have the power to sign that in case of emergency. They did not bring it to us prior to the event so what I advised Carol

when she called me and because it's nothing new, we do it annually for the Cowboy Symposium for the Liquor License, I instructed the Mayor to go ahead and sign that and send it in. I felt it would be best to inform the Council and to get Council to approve it after the fact for the Mayor's action.

Mayor Williams entertained a motion to approve Special Dispenser Permit License Application - 25th Lincoln County Cowboy Symposium on October 9-11, 2014 (Retroactive).

Councilor Morales moved to approve Special Dispenser Permit License Application - 25th Lincoln County Cowboy Symposium on October 9-11, 2014 (Retroactive). Seconded by Councilor Miller.

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 - Current Asset Listing - June 30, 2014.

Mary Castaneda, Finance Director said this is a new requirement from the auditor that we need to improve our current asset listings and our obsolete or deleted listings. The current asset listing inventoried as of June 30, 2014 by staff.

Mayor Williams asked what this covers overall?

Mary said infrastructure, anything that was purchased more than \$5,000 within the year. It includes any kind of construction improvements, infrastructure with land, buildings, vehicles, equipment, and repairs.

Mayor Williams entertained a motion to approve Current Asset Listing - June 30, 2014.

Councilor Morales moved to approve current Asset Listing - June 30, 2014. Seconded by Councilor Miller.

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 - Removal of Current Unusable or Obsolete Assets - June 30, 2014.

Mary Castaneda, Finance Director said this is a current listing of the assets that are unusable or obsolete as of June 30, 2014 that was inventoried by staff. I do want to mention in your Current Asset Listing that these that are listed on your year-end listing. There are a few here that I am asking to be removed. I'm not going to remove them until you approve it and then the auditor will make the adjustment.

Mayor Williams entertained a motion to approve Removal of Current Unusable or Obsolete Assets - June 30, 2014.

Councilor Miller moved to approve Removal of Current Unusable or Obsolete Assets - June 30, 2014. Seconded by Councilor Perry.

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 - Setting New Days and Hours of Operation - Hubbard Museum of the American West.

Councilor Morales said to Janis Rowe, Associate Director HMAW said I feel like you have a hard with staffing because you have so few. I'm thinking that one of the ways to help you and to keep the museum functioning is to maybe close the museum two days a week like Tuesday and Wednesday. Then have it open during the weekends and Monday because so many holidays are on a Monday. I felt like if we could do that it would help you with staffing.

Janis Rowe, Associate Director HMAW said I agree with your possible solution however Wednesdays are the days the bus tours come in. I had thought myself about maybe closing on Thursday and Friday.

Councilor Morales asked what the attendance rate was on Fridays?

Janis said believe it or not Friday is slow. Two of my staff would like to attend church on Sundays. The only solution we're going to get for scheduling is probably Thursday and Friday. My question is what do we do with Patricia on those days? Does that make her a part-time again or do we require her to work over the weekends?

Carol Virden, City Clerk/Treasurer said Patricia is the custodian for City Hall, Police Department, Planning & Zoning, Animal Control, Transit, and Building Inspector in the mornings. The other half of the day she goes to the museums for custodial duties there. That's not to say that we couldn't have her Monday through Friday doing specifically that. We can hold her three days a week and then you can have her the other two. She's a great custodian but there is not enough time to have her do what we would like.

Councilor Morales asked if closing two days during the week would be beneficial to the museum?

Janis Rowe, Associate Director HMAW said yes and if they could get the Visitor Representative hired next week.

Councilor Miller said people would get used to the new schedule.

Mayor Williams entertained a motion to Setting New Days and Hours of Operation – Hubbard Museum of the American West.

Councilor Morales moved to approved Setting New Days and Hours of Operation to be closed on Thursday and Friday and hours will remain the same and effective October 30, 2014. Seconded by Councilor Perry.

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

The next item on the agenda was from the Consent Agenda – Discussion and Possible Action – Wastewater Treatment Plant Operating Invoice for August 2014.

Councilor Morales moved to approve – Wastewater Treatment Plant Operating Invoice for August 2014. Seconded by Councilor Perry.

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 a beginning cash balance of \$6,241.42. They had revenues of \$13,112.96 and out of that \$12,227.96 was from grant money. The rest were fares. There were expenditures of \$6,580.79 leaving them an ending cash balance of \$12,773.59. The museum had a beginning cash balance of \$52,120.66 and revenues of \$17,462.44. Expenditures of \$25,867.31 leaving them and ending cash balance of \$43,715.79. These figures are tentative for September.

Mayor Williams stated the next item on the agenda was – Update of Lincoln County Transit Changes.

Carol Virden, City Clerk/Treasurer said I issued an Interoffice Memorandum to Mayor Williams as well as each Councilor and H. John Underwood, City Attorney that we had a mandatory meeting with the Lincoln County Transit employees on September 23, 2014. The reason was to discuss the issues the transit employees are facing as well as the complaints that were basically coming in daily to City Hall. One of the issues was that the transit employees were still picking up riders outside of the City and Village limits. The understand that it's not available and they will not pick up anyone outside of those boundaries. We got complaints of speedy drivers and we discussed that they would have to maintain speeds limits as posted. We discussed that there will be no picking up of friends for no charge. The vehicles will be inspected weekly. There will not be any cell

phone use while driving and they have to pull over and make a complete stop. We initiated new passes for riders and placed an expiration date. Those passes will be sold at City Hall. This is for safety reasons for the drivers. We will then have a better handle on the number of passes that are out in Ruidoso and Ruidoso Downs. Previously they were selling \$20 passes for 18 rides and \$30 for 40 rides so you can already see the loss. We did \$20 for 10 rides and that is either going of coming. We did \$30 for 15 rides. We did revise the Riders Handbook to reflect the Federal Transit Administration Regulations. That hand book did go into effect October 1, 2014 and made copies for each vehicle to be handed out to riders in those vehicles. The Lincoln County Transit Drivers Operational Handbook was also revised and that became effective October 1, 2014. Those documents will be maintained at City Hall and there is a reason why. At the present time of the drug and alcohol policy being developed according to Federal Transit Administration Regulations and when this policy is completed will be coming to Council for approval. The transit employees really were complimented on having meetings and we will continue holding meetings with the transit employees. The reason that these documents will be maintained at City Hall is that Mary and I had to reconstruct the 2016 grant application. We got that down and made a few revisions. The Mayor will be making a presentation at SERPO tomorrow and hopefully we will be getting some funds for transit and I am really confident that we will. The Riders Handbook, Drivers Handbook, and Drug and Alcohol Policy had to be revised and/or create because there were no documents. We talked a little bit about that there are two on-call, part-time drivers budgeted for this fiscal year and a position for administrative assistant and that is not a manager. Mary is working on the reimbursement on a monthly basis. We will keep you abreast and answer any question you have.

Mayor Williams stated the next item on the agenda was – Employee of the 3rd Quarter 2014.

Mayor Williams said it is my pleasure to name Jim Marion as Employee of the 3rd Quarter. He's a very intelligent and hard-working young man and excels as dispatcher in the Police Department.

There was a round of applause.

PUBLIC INPUT

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

Wayne Williams said this problem with the flood control is kind of like the problem with the people with the horses. There was an article in the newspaper. Shame on them if they didn't read it but come on down and talk to us in Planning & Zoning. I can't argue with the engineers. Right now my house is in the middle of a lake according to this. It's typical of what's going on. The Planning & Zoning a few years back allowed somebody to divert water, a natural flow of water in front of a wall, eight foot tall that goes all the way up to the river. By the way, were we notified by letter? If anybody knows my wife it would still be in her file and we don't have one. This wall goes from the right-of-way side of someone else's property all the way to the river. We've asked time and time again to see the records

where this road was done away with. It was named Border Road. We can't get you to do it. I guess we'll have to sue through the freedom of information act but that has been the problem with Planning & Zoning. I don't think it was under this jurisdiction when it happened. I think it was Armstrong at the time. I took the Mayor out to show him some property where the City's engineer said the problem is because water was running off of the Forest Service. That's an out and out lie. I showed the Mayor the problem. Then, I think this was the Mayor's doing, not Planning & Zoning, the Mayor before you. They went up and dug up the side of the same house and went in with a front end loader and dug a ditch. Then they had to go back in and put barriers up. We have got to do a better job with our Planning & Zoning. We've got a problem right now everyday with Code Enforcement driving up and down our road. There is only one problem in our neighborhood. It's the blue house. I stopped the Code Enforcement today and had to stop him in the road at the back of the house. The weeds are tall and I asked him when are you going to do your job and get these weeds knocked down? He said I can't do it now and I'll think about it. He said it belongs to a bank back east and it will have to be condemned. I said well condemn it. They've done it once before. This house is wide open for kids to go in and play because the doors are open, the roof is caving in, the weeds are so high you can't walk through it. Then you got one more thing and I don't even know if the Code Enforcement has any say in it. That's the Hubbard Race Track. If you go down Joe Welch Drive on this side of the horse field it's all nice and trimmed because that's his show place but on the other side of the road the weeds are up this high and trust me the weeds don't get cut until right before the horse racing starts. Those weeds die and the seeds go all across our neighborhood. I spend \$600-\$700 a year on weed killer. Code Enforcement I understand has to do some selective enforcement. How about enforcing the ones that can afford to do it? I'm sure there's property up behind City Hall that is a fire hazard and has trash and all. Even back when we had the fire we watched it go across our back yard so fast and it was all the weeds. Probably the reason our house and Charlotte Lord's and my father in laws house didn't burn down was because I got permission from the Forest Service to mow into the forest. I'm not saying you have to enforce every single code all the time but you have to start somewhere. If you're going to start maybe you can take some of these people on community service, because the judge doesn't ever fine them, he just say hey buddy and lets them go. Let them go and clean up these yards. You can't just wait until the next fire comes through because it's like pouring gas on it. That blue house has got to have something done about it. By the way, I've got history and I think I even worked on one of your campaigns years ago and I've been coming to these meetings for twelve years. It seems like the only input you get from this town is me and my wife. We're here every two weeks to express the wishes and concerns of our neighbors and friends. Oh, nice job on the transit.

James Frazier said and I have owned property on Wood Lane for twenty three years. I've come to City Council and they've tried to tell us we can't have horses there years ago. I took them to court here in your court and I have it where we can have eight horses per acre. That property of mine the City Council changed it to non-horse property without any knowledge to me or any of my neighbors and that was illegal. On my deed it says I can

have horses in All American Estates. There is no residential without horse property there. I fought this battle before in 2002 and I won it. There is a court order saying so and you need to obey that. I don't know how it got changed. He doesn't know how it got changed. We were never notified. This again to their policy. They sent eighty four letters out. I get letters all the time from city, state, federal but when I get a registered letter and it's something legal going on with my property I will address it. What I expect from this Council is if you're going to do something legally like you just did without notifying those eighty four people with a certified letter that there is a problem you have made their homes and property so hard to insure that the working man now cannot build there or live there. This is a horse community. The track, the horses, and everyone that works here. Everyone in town has their two horses in that back yard. This is Ruidoso Downs. It's not Alto or Ruidoso. The hardest and poorest. So expensive that they can't afford it because of his actions they can't ever rebuild or get a loan again. That's what you've done tonight. I expect this Council to immediately change these properties back to the court order.

Corena Baca said I live at 131 Wood Lane. My biggest disappointment tonight is that I was here because there was a notice posted that there was going to be a Public Hearing tonight on the zoning. For whatever reason there wasn't and it's the lack of communication again. I'm unhappy again.

Carol Virden, City Clerk/Treasurer said I'm not going to answer that but if you want to come to my office in the morning I will certainly talk to you.

James Phelan said I had a red notice that there was going to be a Public Hearing tonight. I got a certified letter saying it was going to be a Public Hearing. It's not so I decided to intervene but it's not going to solve anything. I've been to seven City Council meetings and two zoning meetings and we're still not there. I've called the Mayor and Steve several times. This is going on a year and we're still not going forward. All I'm asking for is to please get down to business. I don't see how you all run the City after watching tonight. I don't see how you all remember from one to the next because you jump through the hoops because you want to go through the zoning. I don't see why we're being pushed back. We meet all the requirements and done everything the City has asked.

Mary Aigner said we're fairly new to the community. I just have some comments. The sign by the streets says the City Council meeting but it doesn't have the time. On September I checked the website and it didn't have the date or the time. Regarding the yard waste we didn't even know it could be picked up and saw piles of brush and thought these were special pick-ups. Before you eliminate it you might let people know they have that service. I also want to know where the recycling is because in Ruidoso it's behind the Senior Center. The map, I'm not in a flood plain I don't think in Agua Fria but you could put maps up at the Senior Center and the Post Office and I agree with them about the certified letters. The lady that talked about the museum, her employees want to be off on Sunday morning. I don't know what the hours are on Sunday but why couldn't they open at 11:00 so they

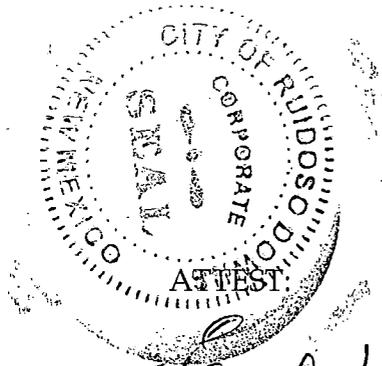
could go to early services? A lot of churches don't have night services. I think it would make her employees happier because I didn't even know the City ran the museum.

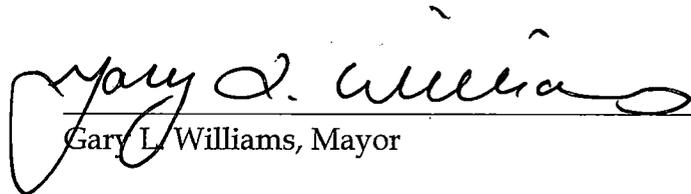
ADJOURNMENT

There being no further business to Mayor Williams entertained a motion to adjourn.

Councilor Morales moved to adjourn at 7:27 p.m. Seconded by Councilor Miller.

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





Gary L. Williams, Mayor



Carol Virden, City Clerk/Treasurer