

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
JANUARY 26, 2015  
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on January 26, 2015. Mayor Williams called the meeting to order at 4:30 p.m. and asked Kenny Ellard 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

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

Also present:

H. John Underwood, City Attorney  
Mary Castaneda, Finance Director

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 Morales moved to approve the agenda: Seconded by Councilor Miller.

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 Miller 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 JANUARY 12, 2015

Councilor Miller moved to approve Minutes of the Regular Meeting of January 12, 2015:  
Seconded by Councilor Perry.

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

APPROVAL OF MONTHLY REPORTS

Councilor Miller moved to approve Monthly Reports: Seconded by Councilor Perry.

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

APPROVAL OF COMMITTEE REPORTS

Councilor Miller 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

There was no Unfinished Business.

NEW BUSINESS

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

Mayor Williams said I would like to pass on kudos from the Mayor's office and City Council to Public Works staff workers for the job they did Wednesday night, Thursday, and Friday morning during the snow event. They cleared the streets and opened up the avenues accessibility for our citizens to traverse through the City and major highways safely and worked very hard. They put a lot of hours in. On the Agua Fria update the sewer project is proceeding and is still in Phase I. The project on Griffith Avenue is a little over halfway to completion. The project itself is moving slowly due to the weather we've had recently but we're looking forward to in the next few weeks to moving up into Escalante. Legislative info, as you know the legislature is in session in Santa Fe. The City is pursuing two projects, Phase II of the sewer project at \$500,000 that we're looking for

capital money for. We're also looking for a replacement cost of about \$100,000 for City Hall. We have a lot of issues with roof leakage and some damage and some mold that has occurred in the past three to four years. Public Works has done their best to keep it in check but the roof is deteriorating. I would like to send my thanks personally to Representative Zach Cook who was named Chairman of the Judiciary Committee. It is a very, very, important committee in Santa Fe. He is a well-deserved representative of area 56 for the Lincoln and Otero counties.

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

Councilor Miller said I also want to commend Public Works. I saw them out there with shovels and they did a great job.

Mayor Williams stated the next item on the agenda was – Dan Austin CPA – Presentation of City of Ruidoso Downs Audit FY 2013-2014.

Dan Austin CPA said in your possession are a couple of documents before we look at the audit report and a letter from the State Auditor. The audit has been accepted and approved by the State Auditor on January 9, 2015. There is also a letter that I am required by the Governmental Auditing Standards to communicate with the Council about anything relating to any issues that I might have had in performing the audit. I said we started the audit around October 28, 2014 and finished around November 20, 2015. We had an exit conference on December 31, 2014. I have no real issues in completing the audit. I would like to say that Mary has done a pretty commendable job of taking over for Terri after quite a number of years. I had a lot of good questions from Mary during this process and I know she's thinking a whole lot about her job and making my process easier.

Dan Austin CPA said on the audit report I would like to start on page 6. This is my report on the audit. It states your responsibility and my responsibility and my opinion on the Financial Statement. We also audited the Budgetary Comparisons and felt that all were fairly stated. On page 8, 9, 10, and 11 is a management discussion and analysis. On page 9 I'd like to call your attention to the Financial Summary. This is a consolidation of all of the funds you have. The total assets at the end of FY 2013-2014 were \$25,835,933. At the end of June 2014 they were \$26,042,291. We had \$1,821,579 in liabilities for 2013 and \$1,814,210 for 2014. Our equity at that point was \$24,014,354 for 2013 and \$24,228,081 for 2014. More importantly on page 10 are the Changes in Position, our P & L. The total revenues for Government and Business Activities were \$6,011,056 for 2013 and \$6,246,822 for 2014. Our total expenditures were \$5,731,179 for 2013 and 6,009,204 for 2014. For the year 2013 we have a net increase in profit \$279,877 and \$237,618 for 2014. Overall I think the operations were successful in not going into a deficit.

Dan Austin CPA said over on page 12 we had \$4,201,481 in cash for 2014. In the Utility Fund there was \$1,952,132 and \$2,249,349 in Governmental Activities. We also had total Fixed Assets in equipment that we are keeping up with in the net depreciation of

\$16,119,552. At the end that leaves \$26,042,291 in total assets. Total current liabilities were \$298,914 and \$208,498 in Governmental Activities. We had long-term debt at the end of the year in the amount of \$1,515,296 and \$1,112,000 in Governmental Activities. Total equity for the year was \$22,228,081 and \$12,373,633 for Business Activity and \$11,854,448 for Governmental Activities.

Dan Austin CPA said on page 13 is the P & L for the year with a Change in Net Position of \$237,618. We did have one accounting change where it says "Restatement" in the amount of minus \$23,891 and wonder what that is. What happened is about five or six years ago when we issued some bonds, at that point in time we were required to amortize the premiums on those bonds over the life of the bonds. The Government decided not to do that anymore so I had to go back and correct the prior year beginning balances so that is a correction. Under the Revenues there was a transfer of \$45,000 from Governmental Activities leaving a net change position in Governmental Activities of \$125,617 and the Utility Fund of \$112,001 after the inter-fund transfers.

Dan Austin CPA said on page 14 this is our Governmental Fund. What we do here is select based on certain standards funds that are most important and the General Fund is the most important. We always considered the Museum Fund important and the Debt Service Fund. The General Fund ended up the year with \$1,322,228. Taxes Receivable were \$495,322 leaving Total Assets at \$1,817,550. Total Liabilities were \$90,468. Our General Fund Equity on a Governmental basis was \$1,727,082. I've been talking about the Museum Fund for the last few years because of the Capital Outlay or Cash Outlay to keep the museum functioning. At the end of the year the museum had a Cash Balance of \$53,232 and inventory in the store of \$29,649. Accounts Payable were \$4,226 and \$3,741 Accrued Payroll and Total Liabilities of \$7,967. In the Fund Balances we had equity of \$74,914. Debt Services were \$82,065 and all of our other funds had cash of \$791,824 leaving the Fund Balances at \$2,823,211.

Dan Austin CPA said on page 16 the Revenues on the General Fund on a Governmental basis were \$3,157,090. Total Expenses were \$3,210,051 so we had an excess of Over Expenditures of \$52,961. There were expenses out to other funds in the amount of \$72,692. There was a net deficit in the Fund Balance for the year of \$1,852,735. Contributions and Sales generated by the museum were \$266,379. There were Expenditures of \$4,464,957. There were transfers of \$218,000 into that fund for operational purpose and we ended up with a net deficit \$163,158. The Fund Balance at the beginning of the year was \$1,852,735 and at the end of the year it was \$1,727,082.

Dan Austin CPA said on page 18 is something that you look at on a monthly basis and it is our General Fund Budget. The Original Budget for Revenues was \$3,285,889 and the Final Budget was \$3,379,364. The Actual Budget was \$3,194,917 so that left an Unfavorable Variance of \$184,447. For Total Expenditures the Original Budget was \$3,250,869 and the Final Budget was \$3,533,485. The Actual Budget was \$3,205,342 and left that at a Favorable Variance of \$328,143.

Dan Austin CPA said on page 19 on Museum Fund total revenues of a total of \$333,400 of original budget and actually generated \$271,380 on the budget amendments and actual revenues were \$266,379. Total expenditures were of the original budget was \$475,012 and ended up in the final budget of \$458,562 and actually spent \$435,669.

Dan Austin CPA said that overall would say, we were able to maintain and the budget amounts were under expended from an expenditure standpoint.

Dan Austin CPA said on page 30, we are always worried about making sure our cash that we have in deposit is safe and at the end of the year you will see that our total cash \$4,452,227 in all funds; less FDIC insurance of (250,000) and uninsured public funds of \$4,202,227. Compass Bank through the Federal Home Banking issues a letter of credit of Five Million Dollars and we were over insured in the amount of \$(797,773), which means all the cities cash is safe.

Page 31 of the Long Term Debt, the City of Ruidoso Downs currently has five loans; New Mexico Finance Authority, USDA Rural Development, NM Environmental Department, GE Capital for equipment and NM Finance Authority. Total long term obligations balance as of 6/30/2013 \$1,631,687 and balance as of 6/30/2014 \$1,584,548.

Dan Austin, CPA said on page 38, is a budgetary report on various departments and is categorized as general government, Public Safety, Culture and Recreation, Highways and Streets and Other. This mirrors what your income financial statement is like. Mr. Austin did inform the City Council that someone is watching your pocket book.

Dan Austin said that on page 62 is his report to State Auditor on the internal control and had no issues. And on page 64 Schedule of findings, responses and other disclosures had unmodified opinion and no findings for FY ending 06/30.2104. Exit conference was held at Ruidoso Downs City Hall on December 1, 2014.

City Council Morales thanked Finance Director and City Clerk for managing the city's finances.

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Approving City of Ruidoso Downs FY 2013-2014 Audit.

Mayor Williams entertained a motion to approve City of Ruidoso Downs FY 2013-2014 Audit.

Councilor Miller moved to approve City of Ruidoso Downs FY 2013-2014 Audit: 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 – Resolution No. 2015-01 Mid-Year Budget Adjustments.

Mayor Williams entertained a motion to approve Resolution No. 2015-01 Mid-Year Budget Adjustments.

Councilor Morales moved to approve Resolution No. 2015-01 Mid-Year Budget Adjustments: 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 – Tim Keithley – Lodgers' Tax Request – Advertising for Ruidoso Downs Hotels/Motels - \$4,800.00

Mayor Williams entertained a motion to approve – Tim Keithley – Lodgers' Tax Request – Advertising for Ruidoso Downs Hotels/Motels - \$4,800.00.

Councilor Morales moved to approve \$2,000.00 lodger's tax request with quarterly updates beginning in March 2015: 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 Municipal Judge Harrold Mansell- Requesting to Hire Full Time Bailiff and Also Cross Train as Court Clerk-Starting Hourly Wage \$17.00 And Remainder of the Bailiffs wages be moved over to Court Administrator as a Salary Increase of \$3.00 per hour.

Judge Mansell said most of you know that Dana Terlecky our bailiff has resigned and retired. I have turned it all over to Donna for the retirement. Judge Mansell said that he is requesting that the money he had been allotted with for the bailiff. The only thing we have to do is maybe change some of the wording because we have to have a bailiff. We want to cross-train a clerk at the same time. If something happens to Virginia our system that we use in there someone here will know it and be able to walk right in and use it. I was told our budget was there and I knew this was probably going to happen. In fact at the beginning of the year Carol cut me a little short and said that and asked me about Terlecky. As far as I know everything was taken care of just to process all of your okays. City Attorney asked Virginia Armstrong, is there another lady that works with you?

Virginia Armstrong said, she is my part time clerk. She is not a full time clerk and she is not trained in the efficiency of a full time clerk. She fills in when I am not there, usually on court days usually Thursdays. I bring her in because I still give her training because things change and there is a lot of stuff to learn. She is not there all the time; she needs to be there part time. The need for a full time bailiff, what I wanted to do is cross train a bailiff to be able to fill in when I am not there at the Court. I have not been able to take Tuesdays or Thursdays off because I have to help basically, I am basically the bailiff when we have court. I am not even 5ft. tall and I have to be the bailiff and I am supposed to be the bailiff. I am fortunate enough to have a police officer on duty and not out there on the streets they can bring my prisoner in and stand there and watch, keep an eye on the prisoner. I am not trained nor am I physically able to handle prisoner. We do need a bailiff. Our bailiff used to do hearings, he would set our trials, he would handle the trials, and the bailiff would also handle the court.

City Attorney asked, so you do need a bailiff?

Virginia Armstrong said, yes sir.

City Attorney said, Judge I had an opportunity this week when I was up in Santa Fe to visit with Mr. Ben Black the Attorney and this is what they explained to me about the bailiff. And I believe this is the law. The budget that was set for your court could not be changed as long as the job position is does not change. You are allotted by this municipality the balance of the fiscal year \$20 an hour for a bailiff. As long as you are to use those funds for a bailiff that is what the budget is for. But if you want to change that job description or grant additional funds to Virginia as I understand your request is for to grant additional funds to Virginia. That changes the budget and for that purpose you would have to come before City Council and ask them. So if you just want to replace your bailiff you would have to go out and advertise and the Council has no input on that. We have the right to replace your bailiff for the same salary as what the last bailiff was. That would be a position that would be open through this fiscal year at the end of June of this year. Otherwise the Council would need to approve a change of salary and a change of job description. That is a part time bailiff and a part time...

Virginia Armstrong said, and we understand that is that reason that we are here. Of course you know all the issues with my bailiff. Our bailiff did not cross-train and I couldn't make him cross-train. I really need somebody in there that would cross-train. I have basically learned to be, not necessarily the bailiff but I have learned a lot of bailiff stuff and I had no choice because we did not have a bailiff. Our bailiff was out since I believe it was July. And we have not had any opportunity; we couldn't do anything or had the time because he had not actually retired. And when he did retire...

City Attorney asked on what date was Mr. Terlecky resignation effective?

Judge Mansell said you would have to ask Donna because she gave me one day which was in 14 and Terlecky gave me a date which was in 15.

Virginia Armstrong said, he actually a 12 week FMLA he did what he had to do.

City Attorney asked, but his resignation was not effective in January 14? I hope.

Virginia Armstrong said, correct.

City Attorney said, because we paid him a whole salary in January, so hopefully he was not retired yet.

Virginia Armstrong said I believe he was paid salary in January.

City Attorney said, no 14

Virginia Armstrong said 14 yes.

City Attorney said explain to the Council why you want to change the bailiff's job description and why to want to change some of those dollars, increase for Virginia.

Judge Mansell said, we are not asking for more money

City Attorney said, you are switching around of the money around for a job description

Virginia Armstrong said, yes

Councilor Morales said, my suggestion would be that we would leave bailiff position as it is right now without a salary increase for the court administrator until the end of the fiscal year. Then at that point we need to change the, look at the salary increases at the beginning of the fiscal year. I do believe that if you do have a part time clerk now I can't understand why you can't train her to possibly take over in your position.

Judge Mansell said, she does not want to be considered to be a part time, full clerk. In other words all she is doing is doing Virginia and I a favor by coming down and filling in when Virginia is having trouble of some kind.

Virginia Armstrong said, we have to have that part time clerk to fill in for us because if I am not here and let's say the bailiff/clerk (if we were allowed to get that) if we needed someone to fill in to do... you know we have to do our deposits daily. People come in; we have to have someone here to fill in. She is only like a substitute even though we have to bring her in. It is hard to hire a part time clerk to just be like a substitute teacher. I am not like a clerk that is not ever here, I am here almost all the time. Except on Fridays I work my four ten. We do need to keep my part time Clerk because we are not asking for a new

position per se. We are asking for a bailiff position and change that person's job description to be more useful for the court and for the city.

Councilor Morales said I am not in favor of adjusting the budget in any way shape or form until the end of the fiscal year. I oppose starting the bailiff at \$17.00 and giving the court administrator \$3.00 per hour. My thought is leave the bailiff's salary as it is until the end of the fiscal year. That is my opinion I don't know how council feels.

Councilor Perry asked, what is his hourly salary? Virginia Armstrong said, \$20 and something cents an hour.

Judge Mansell said his salary is more than \$17.00 an hour; we broke it down to...

Councilor Morales said I understand that

Judge Mansell said, so as Judge you are telling me that I cannot tell him that he needs to learn some more of this other stuff.

Mayor Williams said, what we are doing here Judge is; your budget was approved to have a bailiff at \$20 an hour for the job he does. Council approved that budget and it is in effect. If you request a change in that numbering of the budget including the change that you want to make with the bailiff at \$17 and court administrator \$3 it has to come before council to make that decision. What we are saying here Judge is you have the bailiff's position to the end of the fiscal year at \$20.00 an hour. If you want to fill that position you have the ability to do that. The money is funded, it is in your budget, and if you want a bailiff you can hire a bailiff.

Judge Mansell asked, for \$20.00 an hour? Mayor Williams said, unless you present to Council a change to that budget.

Judge Mansell said well it already sounded like we are not going to get it anyways. Margie already said that...

Mayor Williams said, this is wrong Judge, the fact that we are trying to do is to let you know, like any other department you have a budget. You work within the budget. If you have a position that becomes vacant in that budget you hire to fill the position at that cost. Same thing is happening with you sir you have a bailiff opening for \$20.00 an hour, if you want to fill the position you have the ability to do that through personnel and the processes that comes with that.

City Attorney asked, Ms. Armstrong if the person that you have now and I don't know what you are paying her out of the budget. It is only like you call a substitute?  
Virginia Armstrong said, yes

City Attorney said, Judge Mansell and Ms. Armstrong, if you want a part time bailiff, there are no bailiffs now they are now both male and female. They are a position of authority here they are here to be protected. And of course we do have a police department that is close to you, when you have court that you could call ahead. But you could have a policeman in court if you call ahead. We haven't in the past.

Virginia Armstrong said, we can't, if I may.

City Attorney said, maybe we have Chief Rupp sit down and talk to you all. I am just trying to be creative, think out of the box, between now and the end of the fiscal year in the budget here, if you create a position bailiff and assistant clerk who is a full time position. Wouldn't you be able to save that money of the part time clerk because if this person doesn't want to be full time clerk and doesn't want to be trained to do the same as a full time clerk could do would seem we are being extremely redundant here by creating a double position.

Virginia Armstrong said, we are not actually creating a double position when we have a bailiff, I think it is important for people to be cross-trained. I know that there is people in city hall that are cross-trained and I think that is awesome. We really don't have anyone in my office that is cross-trained. If something happens to me, let's say that I win the lottery and I get to quit. I don't want to say that I am going to die or anything. But if I was to get ill the person that we have now she is not trained to do warrants, duties that I do she doesn't do. I don't know that I would have the time to train her right now and there is other reasoning's for that.

City Attorney said we don't need to get into that. I am just suggesting that the proper time for this discussion would be when we come up for budget hearing. As you know the reason for this bailiff's salary and the reason for the bailiffs it comes out of a federal court position ordering us to pay this gentleman this amount of salary.

Virginia Armstrong said, exactly

City Attorney said, it is a very unusual situation that ran a course of eight years which there is no usual explanation other than the fact that we have been fulfilling a court order for the past eight years.

Virginia Armstrong said and we didn't realize at the time. I was fairly new when we got a bailiff. We didn't think that we needed a bailiff at that time we had no police department on staff and we had a policeman that would come in and do our bailiff stuff. But then we did hire this person because we were ordered through the city to hire this bailiff. The Judge thought I am going to give him more duty. The bailiff is only here two days a week for an hour so the Judge decided to give him more duties. Now we don't have a full staff in the P.D. a lot of times they can't come in and bring a prisoner in for us. I can basically handle someone if they are talking and tell them be quiet. But if someone gets out of order there is

no way that I can handle that because I am not a bailiff. Our bailiff's did do that because he did his bailiff's stuff plus he did some hearings; stuff like that in our court, which was important to us. Because we didn't have one and we didn't know what it was like to have one and now that we have one. We really need a bailiff. As far as my part time clerk she comes in when I need her, she is not always there. It would take a full time position for her to be able to train her, what she needed to do. If I am not there, my bailiff has to do the bailiff stuff. Even if they are part time if they are being cross-trained they still have to be the bailiff when they are bailiff. If there is nobody to be the clerk and bailiff is being the bailiff who is going to be the clerk when I am not there? We really need that extra position. It is not like we are district court or magistrate court but we do need it and it is our court.

City Attorney said, I am just suggesting to you that under the current state of affairs in your budget for bailiff until the end of the fiscal year and budget hearing coming up in March that it might be much simpler at this time to hire yourself a bailiff. Keeping this in mind, coming before council for other changes.

Virginia Armstrong said, what happens if we do go in and hire a bailiff we don't have to go through council. You said the Judge can do that.

City Attorney said, you have to do the advertisement. Virginia Armstrong said right. In house for seven days, then out for advertisement? Because we are not actually creating a new position we are just filling the bailiff's position.

City Attorney said, that is right

City Clerk, Carol Virden said under personal policy manual from the City of Ruidoso Downs your policy that was adopted and approved by Judge Mansell says "that if you are silent you automatically come under ours."

Judge Mansell said no we changed that. City Clerk, Carol Virden asked, so your personnel policy does not say anything about the hiring process?

Judge Mansell said, yes.

City Attorney said, I think what Carol is saying is that if your policy doesn't cover that then the hiring policy defaults over the policy set forth in our policy.

Judge Mansell said, no absolutely not.

City Attorney asked, Virginia your personnel policy does it call for in house then out house?

Judge Mansell said, that is the way it has been since I wrote the very first one. We go in house first then we go out of house second then there is a group that was mentioned in the first part that will be Judge. If they could get it down to, then I will hire that one.

City Attorney asked, that is in your personnel policy? Judge Mansell said it was unless somebody changed it.

Virginia Armstrong said the Judge has the authority to hire and fire according to our personnel manual. I know that we got certain rules that fall under the court personnel manual and then there is other ones that fall under the same umbrella as the City's personnel manual. In one of those it does say that the Judge has full authority to hire and fire.

Councilor Miller asked, wouldn't the salary have to fit the budget? If you hire somebody that is making \$20.00 an hour and they have a big family there goes the insurance up.

Virginia Armstrong said, we really didn't want to hire another bailiff at that rate. We don't want you to hire another bailiff at the rate that the other bailiff had. But you know the reasons why that salary was what it was.

Council Miller said yes

Virginia Armstrong said we didn't set that salary that salary was set by someone else. We just did what we were supposed to do.

City Attorney said, Councilor Miller is correct. Virginia Armstrong said, I understand that, that is one of the reasons we didn't want to hire bailiff at that rate of pay

City Attorney said, however that ends up being powered if you want to go through that process, in house out house whatever. Just make sure you do it correctly. Make sure that the salary that you hire at fits the budget that you got so we don't have an increase in budget. Because then we would have a very big problem.

Virginia Armstrong said, and that is exactly what we were trying to do. We don't want to hire another person at the same rate that the other bailiff was at. We don't want to give the new bailiff that salary.

City Attorney said, the law doesn't allow us to change the job description or rate of pay without council action. And I was thinking that the best way to have council action through the budget hearing and through full description.

Virginia Armstrong said, so basically what we are being told...

City Attorney said, no it's my suggestion.

Virginia Armstrong said what I am understanding is that we are not allowed to hire a bailiff unless we hire a bailiff at \$20.67. City Attorney said, whatever is within the budget

Virginia Armstrong said, what happens if we hire one for that budget and then we are wanting a salary increase later. We have to ask for more money and we are not willing to do that.

City Attorney said, that would be within the budget hearing in March.

Virginia Armstrong said, right. So we are not going to be able to hire a bailiff at \$28 and some cents an hour. Is that what you are saying?

Council Miller said, no, it has to fit in the budget.

Judge Mansell said, I will hire a bailiff, after we go through the process and we will pay them that until the new budget starts and I hope we are invited this year.

Mayor Williams asked, if you hire a bailiff at \$20 an hour are you still not coming at your request of a budget of \$17 per bailiff. Judge Mansell said, no.

Virginia Armstrong asked, are we allowed to do that?

Judge Mansell said, they are not going to do it so.

Mayor Williams said, I am saying Judge, let me make it clear, if you want to hire a bailiff now at \$20 for your budget in the fiscal year, same job description and everything. If you hire that bailiff for that amount of money and you come back and want to request what you want to request. That won't work because you can't increase the salary.

Judge Mansell said we will go ahead and hire one just like these two have said at this rate and we will go from there.

City Attorney said whenever you want to do any changes that would be in the budget hearing. Because this is only until the end of this fiscal year that is why we are caught in this game. We got a budget, in the same job description. If you choose at your budget hearing to ask for a change of job description that is your decision within those budget hearings in March.

Virginia Armstrong asked, so if we want to wait until March to hire a bailiff we can ask for what we are requesting for now in March in our budget hearing?

City Attorney said, those budget hearings will only be effective the beginning of July 1<sup>st</sup>. If you are going to hire a bailiff you need to start advertising within a week from today. You need to get a bailiff in there. Otherwise it might just go away.

Virginia Armstrong said, right.

City Attorney said, the only thing we can do effectively is for a job description and change of monies around is effective the next fiscal year beginning July 1<sup>st</sup>. And those budget hearings take place in March.

Virginia Armstrong said, so we want to hire a bailiff and we are going to stay exactly how we are we don't have to have your approval. City Attorney said, stay within the budget.

Councilor Miller said, there has to be a range there in case insensitive are a whole lot more than the last bailiff if you're going to stay within the budget.

City Attorney said, you got to stay within the budget.

Councilor Miller said, you might have to do a range of \$15,000 to \$20,000 and see if the experience, see what it ends up to. If it ends up more than what we paid the last bailiff then you are not in the budget.

Virginia Armstrong said, then how do we know...

City Attorney said I would work with Donna. Virginia Armstrong asked Donna?

Councilor Miller said finance director, Mary.

Virginia Armstrong said, we can't even advertise if we don't we don't have any idea what we are going to pay this person. City Attorney said, all you have to is go to Mary. Mary will tell you what you have available. It is all within your budget Mary knows your budget.

Virginia Armstrong said, so we have a bailiff that has five kids the insurance is going to be up. We can have a bailiff that doesn't have any children.

Councilor Miller said, yes.

Virginia Armstrong asked, so how do we know that when we are hiring?

Councilor Miller said, they will have to let you know.

Virginia Armstrong asked when we hire them?

Councilor Miller said, no when you're doing the process.

Mayor Williams called for a five minute recess.

Mayor Williams said, Virginia please step up I want to explain something to you about the personnel policy. The Ruidoso Downs Municipal Court, personnel policies and procedures number 112 hiring, when a vacancy occurs within the City of Ruidoso Downs Municipal Court, those full time employees will have seven (7) working days to apply. If there are not full time applicants any part time employee will have seven days to apply. If there are no part time employees for the position the job will be posted for seven days waiting applications from the City employees. If no in house applications are entered the vacancy will be published in two area newspapers for a period of two weeks. Only the Judge has final authority to hire or discharged. He/she may require a test or interviews from the applicants. All employees are subject to back ground check, including criminal history record check and department of motor vehicle check. Applicant must be felony free and free of any misdemeanors that might reflect subject's moral fiber. The applicant must be free of any DWI or related offences. So if you want to go through that process. And the first three sentences I don't understand.

Virginia Armstrong asked, about the seven days?

City Clerk, Carol Virden said 14 days.

Mayor Williams said, yes it says, when a vacancy occurs within the City of Ruidoso Downs Municipal court those full time employees will have seven working days to apply. If they are not full time applicants a part time employee will have seven days to apply. If they are not full time applicants any part time employee will have seven days to apply. If there are no part time employees for the position of the job will be posted for seven days waiting applicants. So that is 21 days.

Virginia Armstrong said, the way I understood the policy when I read it that any full time employee in house employee just like any other job position we post it seven days in house and if there is an applicant that wants to apply for it at that time then they will be considered before we go out from City employees and then advertise it in the newspaper and see if we can find someone to do that. The way I read that would be a full time employee that would be interested in getting a full employment and wants to transfer over. That is the way I understood it. But this is new to me I have never done this before either.

Mayor Williams said, I understand that but reading the policy because of the time frame.

Virginia Armstrong said, right.

Mayor Williams said, it says full time employees will have seven days to apply. If not full time any part time employee will have seven days to apply. And if no part time for the position the job will be posted for seven days waiting applicants from the City employees. So basically that is 21 days because you are waiting for what is stated; full time, part time, or any other city employees. That is 21 days that you are waiting for anybody in house to

apply and then if nobody applies in house you have two weeks with the two area newspapers to advertise.

Virginia Armstrong said, I will read that and discuss that with the Judge so that we can make it clearer and plainer and simple. We want simple we don't want complicated because life is complicated enough we want simply. I will read my policy manual again and I will look at it and make notes. I know that in the last three or four years we have been trying to revise our policy manual that is more user friendly for the court as well as the city and I will talk to the Judge about that. We will just move forward with whatever he wants to do as far as the bailiff. We do use the police department. They are really good about doing it if they are in the office. If we are doing an arraignment we have to get a police officer to bring in a prisoner, because I can't do it. There have been times that parole officer had to bring prisoner's in. We have had them do that, but they are not always available when we have a prisoner in there to do an arraignment. We just need someone all the time that is willing, ready and able to bring a prisoner. We get them on time. So when we have them we have them.

Mayor Williams said, Virginia if you would confer with personnel, Donna.

Virginia Armstrong asked, Donna? Mayor Williams said, yes she will give you and she will view your personnel policy and adjust accordingly.

City Attorney said, will you give her that section number again please.

Mayor Williams said, that is 112

Virginia Armstrong said, I got it

Mayor Williams said, again any changes in any personnel policy have to come before City Council.

Virginia Armstrong asked, have we not been working on a policy plan? City Attorney said, we worked on it for a couple of years

Virginia Armstrong said, but we never did it. City Attorney said, the last one was in the old court I never got it back. But I will be happy to help you find one

Virginia Armstrong said, I don't think we have ever actually finalized it because of all the other issues that have been happening but I know that we were working with you at one time because I had to go through it and make notes. And of course that was one of my bailiff's jobs. City Attorney said, am happy to go back to that.

Virginia Armstrong said, we might need to do that but I will need to talk to the Judge.

City Attorney said, we almost had it but we got into another issues. Virginia Armstrong said I understand that. City Attorney said, thank you.

Virginia Armstrong said thank you.

City Clerk informed Mayor and Council that in reading the courts personnel policy 112 our personnel department has nothing to do with the hiring process for the municipal courts of the city of Ruidoso Downs. City Clerk asked H. John Underwood if that is correct. H. John Underwood stated that was correct.

City Clerk then requested that Mayor Williams issue an interoffice memorandum to the Municipal Courts that they not seek the assistance the payroll/personnel department for the city of Ruidoso Downs in their hiring practice. It is very plain and not confusing of what it says. There is a 21 day period in there for them to hire a bailiff. Whatever range of hourly rate per hour, whether it be \$15.00 or \$12.00, not to exceed the \$20.00. Mayor Williams stated that he would do that.

City Attorney H. John Underwood asked Mayor and Council if he could ask ask Ms. Armstrong a question on the last issue. Mayor Williams allowed City Attorney to asked Virginia Armstrong the question.

City Attorney asked Virginia Armstrong on you being informed about the hiring of a bailiff, could you keep Council through memorandum informed, because it is important to us as to whether or not if we are able to give anybody else a raise. That you are moving forward with hiring a bailiff. Because if those funds aren't used we can use them somewhere else.

Virginia Armstrong stated that she understood that and would have to talk with the Judge. I do know that we need a bailiff. I know we need it. Will need to talk with the Judge on how he would like to proceed. I know we do need a bailiff because I cannot continue to be the bailiff; we can't always count on the Police Department because they are shorthanded.

Mayor Williams asked Virginia to step up to the public's table.

Virginia Armstrong said she had to talk with the Judge and knows that he wants to hire a bailiff. And she will have to talk with him on how he wants to proceed, and until she talks with the Judge and sit down to talk about it then we will decide.

City Attorney informed Virginia that as soon as they decide if she would let him as legal counsel for the city know. Virginia said that she would and might have to have that discussion with legal counsel if that is possible. Virginia did state that personally that they had never had to do this and did read the personnel manual. She did go to Donna, did go to Mary and they are the ones that suggested I had to go see Carol about hiring. Virginia informed City Attorney that she didn't know anything about hiring.

Virginia Armstrong again informed that she does know the Judge wants to hire a bailiff and as soon as she can find out. It is going to be another week or two anyway.

City Attorney asked Virginia if she could let him know by Monday. Virginia said next Monday, okay.

Mayor Williams said Virginia, if you could possible ask the Judge also, include in discussion with the Police Chief on availability of an agreement with the Police Chief and Police Department and the Court of the use of officers in place of your Bailiff.

Virginia Armstrong said we have talked with Chief Rupp and they've been real good about helping us when there is someone available.

Mayor Williams said the thing about that Ms. Armstrong is if they know the Court is scheduled and they know what time it's going to be and what's going to involved they can coordinate with the Chief.

Virginia Armstrong said I will write a memo requesting that if there is one of prisoners in jail if they would please have an officer available to bring the prisoner to court.

Mayor Williams said not only would this benefit the City and employees but the Courts too so it's not just a one-sided deal.

Virginia Armstrong said I understand and we're trying to do the best that we can to do the best job that we can so that it's easy and safe and it's kind of difficult sometimes.

Councilor Morales said I do believe that barring the Police Department having a 911 call I cannot imagine that there would not be someone available on Tuesday and Thursday if we have a prisoner correct? I don't think a Bailiff would have to be there the two full days of court if they have a prisoner. My thought is that it can be done and the Police Department can handle that.

Councilor Perry said Virginia; there is just one question I need to know now. You have court two days a week for one hour a day. I'm sure he can figure out to have a Police Officer with you for that one hour.

Virginia Armstrong said they have been real good about working with us. Charles Massey the Animal Control Officer has been kind enough to bring our prisoners over.

Mayor Williams said work with me, work with Council, work with Staff and Legal and whatever you need to do to make this work. Thank you.

Mayor Williams said to Council, I am asking for postponement. They said they would get back in a week which would be next Monday. If you agree to that it would give us enough time to get it on the agenda again.

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Hourly Wage Increases - Utility Clerk- Secretary Finance Administration - Public Works Department.

Mayor Williams entertained a motion to approve - Hourly Wage Increases - Utility Clerk - Secretary Finance Administration - Public Works Department.

Carol Virden, City Clerk/Treasurer said the Office of the City Clerk as well as the Office of the Finance Director are requesting that Council postpone the Item H for the Discussion and Possible Action of the hourly wage increase for the Utility Clerk and Secretary Finance/Administration, and the Public Works Department until the next Council meeting of February 9, 2015 which will allow us time. I think we can find at least a dollar increase for those individuals that are in your Council packet. I know the General Fund can carry it. There are three in the Water Fund and that's the one that we really need to look at so if you would allow us that until February 9<sup>th</sup> to see what we can come up with. These are your dedicated and loyal employees.

Mayor Williams said I have recommendation from the City Clerk to postpone to the February 9<sup>th</sup> meeting for further information that can be passed on to the Council at that time.

Councilor Morales moved to allow the Finance Director and City Clerk until February 9, 2015 to investigate whether or not we can give some sort of a salary increase to our Public Works, Utility Clerk and Secretary Finance and Administration: 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 - Increase of \$1.50 per Hour - Secretary/Clerk HMAW.

Janis Rowe, Associates Director for the Hubbard Museum of the American West requested that at time to withdraw her request of the \$1.50 per Hour - Secretary/Clerk HMAW. However would ask Council to please consider her for a raise on the next budget request. Does know that they do not have the funds for it this year. She is not going to elongate this meeting any longer. Knows they are short on funds, the same way the next one on Item J. If she had known at budget time last year that she could use Lodger's Tax Funds to purchase logos items for the gift shop out of promotional funds would have done so and perhaps made that budget a little larger in order to buy the logos items for the gift shop.

Janis Rowe, Associates Director for the Hubbard Museum of the American West did inform Council that however she will be instructing her successor on these facts of what she had learned this past year.

Again, Janis Rowe, Associates Director for the Hubbard Museum of the American West requested the withdrawal of both Items I and J under New Business from the Agenda until budget time.

Mayor Williams entertained a motion to approve recommendation from Janis Rowe, Associates Director for the Hubbard Museum of the American West to remove Item I under New Business from the Agenda Discussion and Possible Action – Increase of \$1.50 per Hour – Secretary/Clerk HMAW.

Councilor Miller moved to approve recommendation from Janis Rowe, Associates Director for the Hubbard Museum of the American West to withdraw Item I under New Business from the Agenda: seconded by Councilor Perry.

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

Mayor Williams stated the next item of the agenda was- Discussion and Possible Action- Agenda Briefing Memorandum- Increase funds for Gift Shop-Purchase Logo Items Advertising and Promotion of a tourism destination.

Mayor Williams entertained a motion to approve recommendation from Janis Rowe, Associates Director for the Hubbard Museum of the American West to remove Item J under New Business from the Agenda Discussion and Possible Action- Agenda Briefing Memorandum- Increase funds for Gift Shop-Purchase Logo Items Advertising and Promotion of a tourism destination.

Councilor Miller moved to approve recommendation from Janis Rowe, Associates Director for the Hubbard Museum of the American West to remove Item J under New Business from the Agenda Discussion and Possible Action- Agenda Briefing Memorandum- Increase funds for Gift Shop-Purchase Logo Items Advertising and Promotion of a tourism destination: seconded by Councilor Morales.

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 – Mayor’s Appointment to Fill Vacancy Pursuant to Chapter 31: City Council Section 31.01 Establishment; Members; Duties (E) Vacancies.

Mayor Williams submitted his recommendation name of Ellen Bizzell to fill the vacancy left by Councilor Hood.

Mayor Williams stated that he would ask Council as a courtesy to bring to a vote to make a decision on that whether up or down so the process can be completed.

Councilor Miller moved that the Mayor fill the vacancy pursuant to Chapter 31: Seconded by Councilor Morales.

Councilor Perry stated that he had no problems with Ms. Bizzell at all. His problem is this has been going on since we lost Councilor Hood in November. We were supposed to appoint someone at our last meeting and we didn’t. How long are we going to let people apply? Another question Council Perry had was if we do let them continue on, thinks it should be public again so that the public will know. So that if somebody else wants to have their name in the hat, feels that Council needs to table this matter until the next meeting.

Council Perry stated that in his opinion does not feel that it is fair to the ones that apply before the last meeting. They got their applications in they applied and all those went in the trash and we are getting new ones in every day and doesn’t think it’s right.

Mayor Williams stated to the Council that the names that have been presented to the Mayor’s office have not been dismissed. I did receive a new today to be put in with the rest of them. Now, if you choose not to follow through with this today, a name will brought up next week. This will be my third and last try. Following that if you are not willing to accept there will have to be a call for a special election. If there is a special election called, it will have to be money that is not funded and that is an accordance with State Statute. That is money not budgeted for a special election, so the money will have to come from a source to be able to present that to the citizens for vote.

Councilor Morales asked City Clerk if no one is appointed to fill the vacancy until the next election and if we had a council meeting that councilor Miller can’t be at, we don’t have a quorum. We can’t go for a year without appointing somebody.

City Clerk, Carol Virden informed Council Morales that  $\frac{3}{4}$  of the governing body constitutes a quorum.

City Attorney informed that all three members of the councilors need to be present at every meeting for the next year to have a meeting.

City Attorney stated that State Statute says, any vacancy on the governing body of a mayor or council municipality shall which is mandatory of course, what are you going to do if nobody can agree, be dealt with a qualified elector by the mayor of the municipality, with the advice and consent of the governing body. What is advice and consent? Well, the advice of the council at all times, the council has the right to submit names to the Mayor, to see what he thinks about those, that's advice. Consent is obviously the Councils has the final word of voting or not even voting the names up or down.

City Attorney stated that if none of that works, then you have the option of either going the year without a full council. The unfortunate thing that happens without a full council is you end up with somewhat divide board, fortunately that hadn't happen.

City Attorney read subsection B. A special election, for the purposes of filling a vacancy on the governing body, may be called by the mayor of the municipality, may not mandatory, but that can only be done also with the consent of the governing body.

Mayor Williams reminds Council that this is only a temporary position that is up for election in March of 2016.

Councilor Morales suggested that between now and the next council meeting that the Mayor and the Councilors visit with each other and if we can come up with someone that were all happy with. Councilor Morales stated that we have five or six candidates that put in before the council meeting last week. So now, we have a name and nothing against you Ellen, I know you are very knowledge, I know what you did in Ruidoso, all of that aside, and this name came up from the last council meeting to this council meeting. Councilor Morales stated that she did not know she had applied and we had five or six people, now five that expressed interest and is not for doing a special election and is not from keeping this council without another council member and thinks that we are all going to have to buckle up and have to talk amongst each other and say what do you think, nope I don't like you, yes I do, whatever and come to some sort of a person at the next council meeting that we can agree on.

City Attorney stated that in the course of that, he did not any of them talking with more than one.

Councilor Perry stated that we need to get this figured out there is no doubt. He personally, you want to hold a special meeting amongst them, without pay.

Mayor Williams agreed with Council Morales to have a one on one meeting with each Councilor.

Councilor Miller asked Mayor Williams if he had a cutoff date before January 12<sup>th</sup>. Mayor said no. Councilor Miller felt that the public did not know that.

Mayor Williams stated that the vacant position of the city council is asking for any citizen that are willing to be consider for the position is still on hold. Will continue to accept and with the letters that have been received and what will come in between now and next week.

City Clerk Carol Virden stated that she hears Mayor Williams issue a public service announcement that he will be accepting letters of intent and interest to fill the vacancy left by Councilor Hood through February 2, 2015.

City Clerk stated that the action on the table is Discussion and Possible Action- Mayors Appointment to Fill Vacancy Pursuant to Chapter 31: City Council Section 31.01 Establishment; Members; Duties (E) Vacancies.

City Attorney stated that action needs to be taken on the motion.

Mayor Williams stated that a motion and second on the floor to accept the Mayor's recommendation of Ellen Bizzell as the replacement to the vacancy of the council seat.

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

The next item on the agenda was from the Consent Agenda - Discussion and Possible Action - Wastewater Treatment Plant - Invoices - December 2014.

Councilor Miller moved to approve Wastewater Treatment Plant - Invoices - December 2014: Seconded by Councilor Perry.

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

Mayor Williams stated that for Public Announcement meetings the citizens of Ruidoso Downs the Mayor's office would like you if you are interested in the vacant city council seat please submit a letter to his office, so he can have discussion with city council by February 2<sup>nd</sup> by the end of business hours of February 2, 2015.

The next item on the agenda was from the Consent Agenda - Discussion and Possible Action - Parametrix Invoice - December 2014.

Councilor Miller moved to approve Wastewater Treatment Plant - Invoices - December 2014: 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 Reports - Hubbard Museum of the American West and Lincoln County Transit.

Mary Castaneda reported to Mayor and Councilor that Lincoln County Transit has a beginning cash balance of \$1, 978.02; revenues of \$21,771.61; expenditures of \$5,028.73 with ending cash balance of \$18,020.91. Museum fund had a beginning cash balance of \$10, 215.32; revenues of \$7,793.37; transfers in of \$55, 000.00; expenditures of \$32,303.84 leaving a cash balance for the month of December of \$40, 704.85 and this are valid figures. Finance Director Mary Castaneda did inform council that we had received our contributions of \$28,000.00 from the Village of Ruidoso.

## PUBLIC INPUT

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

Wayne Williams said, if they need a voluntary to be a bailiff at the court for two hours a week, I will do it until your next budget meeting. At the last meeting the Mayor put forward the candidate's name. When we voted to elect you people to the office you are sitting in, we expected you to vote on the motion today. On the things that were brought up. So we know where you stand. I have research and found out this gentlemen is welcomed on the budget to sit at this table or that chair. The Mayor's suggestion was quite good. His candidate for City Council man was quite good. If the City Council would have done a bit of investigation, before just keeping quiet. A yes or no vote for the minutes is what we elected you to do. Not to sit up there in smirk because you pulled a fast one on the Mayor. That is not what you are hired to do. You can choice not to vote for somebody or choice what you were elected to do. That is to put your vote on the record where we all know. What you guys are doing, what you suggested earlier, you can't do that. What you don't realize is that you can go until the next election if none of the people are acceptable to the Mayor. You can have your personal favorites all you want. If the Mayor is not acceptable you don't get none of it. But an up or down vote is required in my opinion. One way or the other. That way I know and I am sure Mr. Light would like to know which one of you candidates said no. In truth of the matter is all three of you said no. I know what you guys did, you sit up there with smirks on your face and you think it's funny. It's a joke alright. The joke is on you two that are sitting up there and smiling. You were hired to do a job. If you don't like the Mayor's candidate say no. Don't just sit up there with your mouths shut like a bunch of school kids. You are adults. I put my letter in and I know I wasn't going to get appointed a sit when I put it in. Even though I think I could do the job. But that is not the point. The point, the point is the Mayor gave you a good candidate and you didn't even look at it. Apparently you got another good candidate here that you won't even look at. I am sorry folks but you aren't doing your job.

Pam Williams said, I am going to tell you a story that I went to a local store and was confronted and told that what the Mayor did last week was illegal. And it had to come

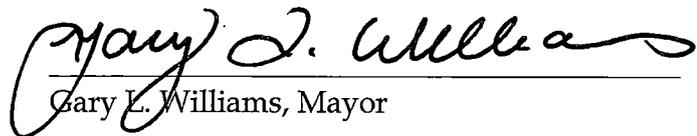
from one of our City Councilors. I also know that you all have one in mind and that is what you are waiting on, for the last one. That is wrong, you all even taken and asked people to send in their letter rather than just taking people. It is known, it is fast that government advisors have said we want you to come in and be our City council person and it's all over town, everybody knows. So don't do it, don't just ignore it we know that it was done and that asked for a certain person to put in their letter that they be the candidate and that is the one you are waiting on. We were told last week that there was a rolling quorum after the Mayor left and the meeting was over and that you three got together and were talking.

Ellen Bizzell addressed the Mayor, Councilors and support staff and thank you for consideration. Ms. Bizzell said if we are opening it back up to these other people, doesn't really know the man that well, but does know they were established and so if I don't get my name back in, would like to at least throw something out there, he does community garden, he has veterinary wife that has done plenty of good animals saving things. But feels that he would have been a nice candidate.

Ellen Bizzell stated that now on the other side; as Keep Ruidoso Downs Beautiful would like to thank Public Works and these two ladies, they have been creative in some of their ideas and big supporters.

ADJOURNMENT

There being no further business to attend to Councilor Morales moved to adjourn at 6:48 p.m.: Seconded by Councilor Perry.

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



  
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Carol Virden, City Clerk/Treasurer