

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
FEBRUARY 9, 2015
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on February 9, 2015. Mayor Williams called the meeting to order at 4:31 p.m. and asked Wayne Williams 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
Christopher Rupp, Police Chief
Dale Graham, Project Manager
Janis Rowe, Associate Director HMAW

APPROVAL OF AGENDA

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

Mayor Williams said I am asking Council to consider removing Item 9C under New Business and the reason is that the person for consideration is removing their name and we will have to move forward at the next meeting with the Governing Body to make that decision.

Mayor Williams entertained a motion for Approval of Agenda to approve the Agenda with the removal of Item 9C.

Councilor Morales moved to approve the agenda with the removal of Item 9C: 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.

Councilor Morales said I have one change on the minutes. On page 18 where it says 'I do believe borrowing' it should be 'barring.'

Councilor Miller moved to approve the Consent Agenda with making the change to the minutes of the previous meeting on page 18: 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 26, 2015

Councilor Miller moved to approve Minutes of the Regular Meeting of January 26, 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.

UNFINISHED BUSINESS

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

Dale Graham, Project Manager said I'm here on behalf of the Public Works Director Cleatus Richards to ask for your approval of a salary increase for some of the Public Works employees, Finance Secretary and Utility Clerk. These monies that we are asking to move are in our budget and we will just need to make some line item budget adjustments for this to happen. We are asking for your approval. To explain where part of this money is coming from it will be from not filling a vacancy for a full-time position in the Parks Department that are not being paid out of the General Fund and then we are going to make a line item adjustment in the Water Department for the Enterprise Fund employees and try to get our employees better salaries and of which we have lost two in two weeks. Just so

you know the other employees who are not on this spreadsheet we will try to help them at budget time and get everybody else an increase so that everybody gets something. I think there are some employees that should be recognized more than others because they are always there and do a good job without asking why. They just do a good job and we need to keep those people.

Mayor Williams asked Dale to explain what the Enterprise Fund is.

Dale Graham said it's the Water & Sewer part and these monies are made from selling the water. The employee that left the position was Lawrence Gonzales and he left to go to work with the State Highway Department. I feel like we really don't need that third full-time employee in the Parks Department but maybe at the next budget we can look at using a seasonal worker in the summer. I think that makes more sense.

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

Councilor Miller moved to approve Hourly Wage Increases - Utility Clerk - Secretary Finance and Administration - Public Works Department: Seconded by Councilor Morales.

Mary Castaneda, Finance Director said I wanted to jump in and talk about what Mr. Graham mentioned about what's going to happen now and for the rest of this fiscal year and then in our budget hearings for the ones that didn't get anything this time.

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.

H. John Underwood, City Attorney said I talked with Ms. Armstrong earlier today and asked her to be in attendance to bring us up to date with what her plans are.

Virginia Armstrong, Court Administrator for Ruidoso Downs said the Judge has decided to advertise to hire a Bailiff in-house for \$15.00 an hour.

H. John Underwood, City Attorney asked if he has advertised?

Virginia Armstrong said yes for in-house.

H. John Underwood, City Attorney asked are you advertising pursuant to the code for in-house and if that doesn't go then you'll go out-house?

Virginia Armstrong said yes for in-house.

Mayor Williams asked Ms. Armstrong with that in mind it means that the job description has changed?

Virginia Armstrong said yes it has.

Mayor Williams asked what some of the changes will be that will occur?

Virginia Armstrong said that job description before the Bailiff was a Police Officer but we are not requesting for our Bailiff to be a Police Officer. We don't think we need one so we took that part out. The Bailiff will actually have to help other departments in the Police Department field. That is the major part of it.

H. John Underwood said otherwise it will be a full-time Bailiff position?

Virginia Armstrong said yes but he will not be assisting the Police Department.

H. John Underwood said if a Certified Police Officer applies and receives the job then they would but you don't have that requirement.

Virginia Armstrong said most of the duties will remain the same except that we are not going to ask our Bailiff to assist in other departments like Police Department, Code Enforcement, or a paper server and things like that.

H. John Underwood asked if the Bailiff did those things before?

Virginia Armstrong said it was in his job description and if there was a need to be we would get him to do it but there was never a need and we didn't ask him to.

H. John Underwood said so some of that was a course decision because he was a Certified Police Officer?

Virginia Armstrong said he was Certified as a Police Officer at the time he was put in as a Bailiff.

H. John Underwood asked if in that advertising you are putting in there and making it clear that the position only runs through the end of June for this budget cycle?

Virginia Armstrong said that is correct and we will be going to Council for the Bailiff that we hire and requesting that they stay on as a full-time employee.

Mayor Williams said the second sentence says that they will service as the officer in handling prisoners to and from jails. Specifically are you talking about our jail here?

Virginia Armstrong said yes.

Mayor Williams asked if the previous Bailiff performed those duties?

Virginia Armstrong said yes.

Mayor Williams asked Chief Rupp that process of transferring the prisoner, whose responsibility is it?

Chief Rupp asked to Court?

Mayor Williams said when you have a prisoner in your jail is it your responsibility to take them to Court?

Chief Rupp said we have done that in the past as well as the Bailiff.

Mayor Williams said the requirement as you stated is not for a Certified Police Officer?

Virginia Armstrong said that is correct.

Mayor Williams said what is the basis for say legal ramifications if something occurs between the distance? I mean you never know.

Chief Rupp said it would have to be based on what current event and what we will have to have. It would depend on handcuffing and some pepper spray.

Mayor Williams said on the original qualifications it was the background investigation, firearms, and drug screening. Wouldn't it be advantageous to have a polygraph exam added to it?

Virginia Armstrong said if need be I'm sure we don't have a problem with that at all. I can't imagine anyone applying for the job would deny it.

H. John Underwood said we've had some discussion about not changing the job description.

Virginia Armstrong said that is correct but the only reason we changed the job description is because it was geared for the Policeman that was our Bailiff at that time. We do not need a Certified Police Officer to be our Bailiff.

H. John Underwood said my concern is that in the past our Bailiff was a Certified Police Officer and he was certified to take prisoners from the jail to court and back. It provided protection to the Court and the staff. If you change the job description to not require that

person to be a Certified Police Officer and if somebody from the Police Department is not available to transport that prisoner those few steps I have some concern about what the ability of what qualifications the person that you hire would have to handle that situation without having some certification.

Virginia Armstrong said we would like for the Bailiff to have some training in how to be able to handle situations and how to handle prisoners.

H. John Underwood asked if they would have any objection to putting that requirement back in?

Virginia Armstrong said no I would not. We want someone who can handle it.

H. John Underwood asked if they had any objection to leaving the job description and requirements the same so we could be assured of safety?

Virginia Armstrong said yes I do. I don't have the job description in front of me. Do you have one of the old job descriptions on there?

Mayor Williams said yes I do.

Virginia Armstrong said I think there is something on there at the bottom of that job description that you do have to be certified and the Bailiff would have to go ahead and fulfill the requirements as a police officer in order to be a Bailiff.

Mayor Williams said under Knowledge, Skills, and Other Characteristics maintain certification of a New Mexico Law Enforcement Officer as subscribed by the laws in New Mexico and regulations of the Department of Public Safety. We also just talked about a polygraph being put on the new one.

Virginia Armstrong said I don't object to having that.

Mayor Williams asked H. John Underwood if there are any legal issues if they aren't certified for transport?

H. John Underwood, City Attorney said I would be I would be very concerned because if someone isn't certified to handle prisoners and there are no requirements in here except general requirements. If we had someone, and we all read the papers, if something happened the liability of the municipality in having a job description with someone as a Certified Police Officer to do this who is basically in charge of prisoners and if the Police aren't available to transport.

Virginia Armstrong said you don't have to be a Certified Police Officer. The Dispatchers are not Certified Police Officers and they handle prisoners. You don't have to be a Certified

Police Officer to be trained to handle prisoners. There is training that is probably required but probably not as severe. I want someone that can handle prisoners.

H. John Underwood, City Attorney asked how would you determine that? The only qualifications here, unless this is the old one, says must have clear driving record and polygraph. Is this the old one?

Virginia Armstrong said that's the old one.

H. John Underwood said if the current job description doesn't include that then your decision and if someone comes in and says I can run and I work out how do we determine whether or not the public is safe in that situation?

Virginia Armstrong asked what do I need to do to get by that?

H. John Underwood said you can't discriminate.

Virginia Armstrong said I don't want a requirement that says I have to have a Certified Police Officer.

H. John Underwood said why not?

Virginia Armstrong said you don't need a Certified Police Officer to be a Bailiff.

H. John Underwood said why not?

Virginia Armstrong said because we don't need one. I think I can put in there to say that we need a Bailiff with certain certifications in handling prisoners and maybe being certified in handling prisoners with some kind of training and background.

H. John Underwood said Mayor, I just want to say that my concern is that by changing that job description and taking that out I can't from a legal point certify that the City wouldn't end up with some liability should something go wrong.

Mayor Williams asked Chief Rupp what are the requirements that you know of state wise and law enforcement wise for transporting prisoners?

Chief Rupp said all of our officers that do transport are Certified Police Officers. None of our Dispatchers have any direct contact other than providing their meal through their jail cell. They don't have any direct contact because they are not properly trained to be doing any handling in those situations. For handling of prisoners is varies from state to state and agency to agency. There is an academy to get people to handle corrections at a cost. I know Alamogordo has a Bailiff but what his qualifications are I don't know. You are looking at some possibility of injuries if not properly trained.

H. John Underwood asked Virginia Armstrong on working on this job description did you contact any other Municipal Courts to see what qualifications they have?

Virginia Armstrong said no.

H. John Underwood asked would you be opposed in having someone with that certification rather than a Certified Police Office in that job description?

Virginia Armstrong said I don't have an objection to it but I would have to go over it with Judge Mansell. He has the final decision on that.

H. John Underwood said I do have some reticence from a legal point of view of authorizing a Bailiff if they don't have the qualifications with someone who tries to or does break free. I think we do have some liability issues and think the matter be deferred and work on a job description that meets the requirements of a Bailiff or use the same one.

Mayor Williams said being that you have considered some of the changes that you want to talk about in this job description the action is to delay or postpone any more discussion on this and remove the posting for the Bailiff at this time until a job description and discussion of how the Bailiff duties would apply on transporting a prisoner or not is really valuable.

Virginia Armstrong said we are not going to be transporting from Lincoln County Detention Center.

Mayor Williams said from the Police Department to your Court.

Mayor Williams said I would ask Council to postpone further discussion or action on this item until Courts bring back a document specifically identifying what the requirements will be for that Bailiff.

Councilor Morales asked Carol Virden, City Clerk/Treasurer if this would be postponed indefinitely until the Court gets back to you with a job description or the next Council meeting? I don't know that we want to put it off indefinitely. I don't know how long it will take you.

Virginia Armstrong said it will take me a couple of days. It will take me two days at the max.

Councilor Morales said so we can have this item back on the agenda for February 23rd?

Councilor Morales moved to postpone and have this item back on the agenda for February 23, 2015 meeting: Seconded by Councilor Perry.

Virginia Armstrong asked am I already going to be put on the agenda for the next meeting or am I going to have to write the letter?

H. John Underwood, City Attorney said you will be placed on the next agenda under Unfinished Business but I would ask that you take the posting that you have now down and come to this Council with a job description that is acceptable. In doing that I think it would be helpful in contacting the Alamogordo court or somebody that the Chief has suggested to see what the certification is for handling prisoners. I think we are going to have to have that in the job description.

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

NEW BUSINESS

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

Mayor Williams said the project in Agua Fria is moving forward but they are working hard to get that completed. I appreciate the Public Works Department and Project Manager Graham for keeping that going.

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

There were no Councilor's Comments.

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - HMAW Agenda Briefing Memorandum - Changing Closing Days.

Janis Rowe, Associate Director HMAW said thank you for the last time that we discussed this same subject. You were very agreeable however since then I have run a lot of numbers through my head on the feasibility of closing especially on Friday's during the peak season we are approaching which is summer. The summer visitation makes up 61% of our revenue. The perfect scenario would be to keep the museum open seven days a week during the summer but we would have to hire extra people and that is not an option at the moment. I ran the numbers in 2013 before we were closed two days a week. I'm not counting Saturday and Sunday and came up with a daily average. From March 1st through January 30, 2013 and March 1st through September 30, 2014, historically Tuesday and Wednesday are our low attendance. We average \$3,732.36 per year for five or six bus tours. If we kept the museum open on Thursday and Friday we would gain \$8,195.00. That's an average over two years. It doesn't make sense to be closed and especially on Friday's. My suggestion at this point with the museum history is to be closed Tuesday and Wednesday for the summer.

Councilor Miller said did you say Tuesday and Thursday?

Janis Rowe said Tuesday and Wednesday.

Janis Rowe said we have contacted Mayflower about bus tours. They didn't say no but they did say they will see what they can do so they aren't totally opposed. I've discussed this with Mary too and she agrees with me on the numbers.

Councilor Morales said the only thing I would shy away from Janis is we started off closing Thursday and Friday and now we're going to Tuesday and Wednesday. I don't particularly want to come back in October and change it again. If we're going to do this it should stay permanent, all the time.

Janis Rowe said another thing we have to do it white over the sign at the entry to the museum that says 'Open Daily' and put the Tuesday and Wednesday on there.

Councilor Miller asked if you would also make flyers to leave at the Chamber and hotels?

Janis Rowe said I'll put it everywhere I can.

Mayor Williams entertained a motion to - Change Closing Days at HMAW from Thursday and Friday to Tuesday and Wednesday and it will be from now on.

Councilor Morales moved to - Change Closing Days at HMAW from Thursday and Friday to Tuesday and Wednesday and it will be from now on: Seconded by Councilor Miller.

Roll call votes: Councilor Miller, Aye; Councilor Perry, Aye; Councilor Morales, 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 these figures are tentative for January 2015. Transit had a beginning cash balance of \$17,689.17. Revenues coming in from rides were \$1,028.00. The Village of Ruidoso made their contribution of \$28,000.00. Expenditures were \$5,909.02 leaving them an ending cash balance of \$40,808.15. The museum had a beginning cash balance of \$39,656.82. Revenues were \$3,812.43. Expenditures of \$23,258.35 and leaving the ending cash balance at \$20,210.90.

Mayor Williams asked what is the bulk of those expenditures?

Mary Castaneda said most of it is payroll and payroll taxes.

Mayor Williams said there are only five employees and six with the part-time.

Janis Rowe asked to speak again and said that we need an effective date for the closing days at the museum. I was going to say March 1st.

Councilor Morales amended her motion to include the effective date of March 1, 2015 and to not changing the closing dates in the future. Seconded by Councilor Miller.

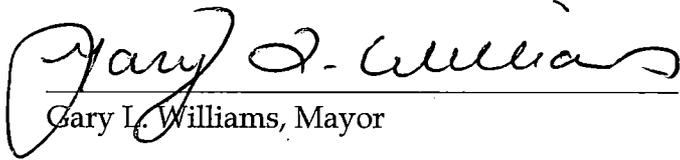
Roll call votes: Councilor Miller, Aye; Councilor Perry, Aye; Councilor Morales, Aye.
Motion carried.

PUBLIC INPUT

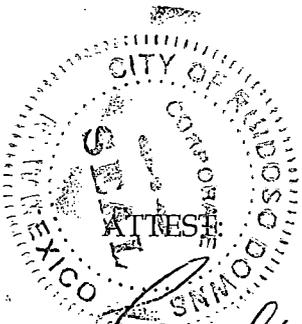
Mayor Williams stated the next item on the agenda was - Public Input.

ADJOURNMENT

There being no further business to attend to Councilor Morales moved to adjourn at 5:16 p.m.: Seconded by Councilor Perry.



Gary L. Williams, Mayor





Carol Virden, City Clerk/Treasurer