

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

The Council of the City of Ruidoso Downs met in regular session on May 26, 2015. 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 Ritter

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

Also present:

H. John Underwood, City Attorney
Alexandra Bobbit, City Attorney
Mary Castaneda, Finance Director
Dale Graham, Project Manager
Christopher Rupp, Police Chief

APPROVAL OF AGENDA

Mayor Williams stated the next item on the agenda was Approval of Agenda. He asked for a change of Item G to be moved up between Item B and Item C.

Mayor Williams entertained a motion for Approval of Agenda with that change.

Councilor Morales moved to approve the agenda with that change. Seconded by Councilor Miller.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF MAY 11, 2015

Councilor Miller moved to approve Minutes of the Regular Meeting of May 11, 2015. Seconded by Councilor Perry.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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

APPROVAL OF MONTHLY REPORTS

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

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

APPROVAL OF COMMITTEE REPORTS

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

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

UNFINISHED BUSINESS

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Direct City Clerk to Schedule Public Hearing for Consideration of Adoption of Ordinance No. 2015-01 An Ordinance Amending Chapter 50 Titled "WATER" Section 50.20 Rate and Charges; billing and Collection (B) and (C).

Dale Graham, Project Manager said we are trying to change Ordinance 50.15, 50.16, and 50.20 B & C. We are asking to have a Public Meeting to take the work 'tenant' out so that the water will be the responsibility of the owner.

Mayor Williams asked Dale to tell them in a nut shell what this does.

Dale said Ruidoso Downs has a lot of renters in the summer for a few months and they run up a water bill and then they leave town. The way the ordinance reads the City is out of luck because the ordinance reads that the owner is off the hook. We're trying to make it where the renters won't be able to have a water account and the property owner I suppose will just have to raise their rent approximately \$60 a month as it stands now for water, sewer, and trash.

Councilor Morales asked when this would start?

Dale said once the ordinance starts we will send the owners notice that they need to come in and change the account services over to their name.

Mayor Williams asked Mary if she knew the amount?

Mary said I don't know and it's hard to tie it down to an exact figure. This would be equal to all homeowners.

Mayor Williams entertained a motion to - Direct City Clerk to Schedule Public Hearing for Consideration of Adoption of Ordinance No. 2015-01 An Ordinance Amending Chapter 50 Titled "WATER" Section 50.20 Rate and Charges; billing and Collection (B) and (C).

Councilor Morales moved to - Direct City Clerk to Schedule Public Hearing for Consideration of Adoption of Ordinance No. 2015-01 An Ordinance Amending Chapter 50 Titled "WATER" Section 50.20 Rate and Charges; billing and Collection (B) and (C).

Carol Virden, City Clerk/Treasurer said I would like clarification from Councilor Morales that you need to include subsection 50.15 Water Services A and subsection 50.16 A & B.

Councilor Morales agreed. Seconded by Councilor Ritter.

Mayor Williams asked Carol when that Public Hearing would be scheduled?

Carol said June 22nd.

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

NEW BUSINESS

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

Mayor Williams said there was a new sign across the street that the Police Department got through a grant. He talked about the lunch program through the Boys & Girls Club.

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

Councilor Miller said on May 16th we had a Memorial Event in the park to rededicate Liberty Gardens which is beautiful. We had Mr. Kurtz come from the American Legion Post #79 to raise our new flag. The Boy Scout Troop #59 was there and had a good time. It was cold and windy but no one gave up. Wayne Williams and his wife Pam were there and Wayne grilled for us.

Mayor Williams said now is the change in the agenda and moving Item G up which was - Discussion and Possible Action - Judge Mansell - Bring Forth and Revisit Bailiff Position for the budget year 2015-2016 and Rename from Court Bailiff to Court Bailiff/Clerk I - See Job Description.

Judge Harrold Mansell said I am here to inform you that I am changing the Bailiff position to Bailiff/Clerk I starting July 1, 2015. I want the position in the budget for 2015 and 2016 per Article 111 New Mexico Constitution bars the infringement upon the powers and authority of the judiciary by the executive legislative branches of the government in the level of state and local government. It is your responsibility to provide the necessary staff or personnel for me to be able for me to perform the functions thereof.

Mayor Williams asked Judge Mansell if he had copies of that for the Councilors?

Virginia Armstrong said we do have copies of the separation of powers.

Judge Mansell said we have given you all I don't know how many.

Virginia said when we were trying to hire the Bailiff we did all the homework we had to do to bring forth the hiring of the Bailiff. It is imperative that the court have a Bailiff. There are some rules that states that it is the Councils responsibility to give us and the judge what we need to fulfill his duties. There is no way the court can run without a Bailiff and a Clerk.

Mayor Williams said the fact that you want to cross-train into a court clerk you do have a part-time employee. Now that we have someone that can be trained into that clerk I will be able to cut that part-time employees hours to a minimum. We don't want to do away with that position because we really needs to be at least two people in court when we are having court.

Mayor Williams said before the federal court mandated the City of Ruidoso Downs for a Bailiff in the court was there one before?

Judge Mansell said yes.

Mayor Williams asked Judge Mansell to enlighten him on this?

Judge Mansell said it was Jason Kinnick who worked at the racetrack in security was at one time. We've had Mike Waltrip who was the Animal Control Officer. We've had several people that filled in and then we had Dana for five years. They've all worked for the City.

Mayor Williams said Judge, the reason I brought that up was for the fact that the reason you are requesting to have a Bailiff position that the City was told you have to have one and not the Bailiff position itself but that we had to rehire the employee. What we are trying to get is a history of the court Bailiffs and see a necessity to continue to have one.

Judge Mansell said we had one most of the time.

Councilor Morales said I called six Municipal Courts and there are no Bailiffs at any of these courts. There is one clerk that also serves as police secretary. They have a monitor that goes to the police. I called places with basically the same population.

Judge Mansell said population means nothing. It is the people that are here and come in from other towns. The Supreme Court has mandated that we have safety in our courts.

Virginia Armstrong said the judge has the right to have the staff necessary to run the court according to the statutes and the law.

Mayor Williams said it all comes down to the budget. It's hard to justify that position.

Virginia asked do we wait for something to happen before you make a decision? I was here for all the budget committee hearings and I was not too pleased with the fact that you all without investigating were given tremendous raises and you were also doing away with employees and yet you went ahead and approved buying vehicles and approved other things I felt we could do without but you all are doing away with employees. As a court administrator I feel we need that position not only for the work flow but because of the safety of the Judge and myself.

Mayor Williams asked Council to work out a decision on this.

Councilor Miller asked what do you do now when you go on vacation?

Virginia said I had Dana Terlecky then and the part-time.

Councilor Miller asked if they have ever had to put off court?

Virginia said no.

Mayor Williams said you have to explain why this is necessary.

Virginia said we were at all of those budget workshop meetings and had everything down to the bare minimum and the Bailiff position was in there. There was no mention at any time that we would be having to do without that other position. Then we get to the Budget Hearing and all of a sudden they say we're getting rid of your Bailiff, we're getting rid of your helper and we weren't even prepared to deal with that. I thought that was very unfair. I sat here through every one of those hearings. I was very hurt and disappointed that our Council would do away with positions and without knowing what these positions were or what these departments did so they could buy vehicles.

Mayor Williams said it's all about the budget.

Mayor Williams entertained a motion for approval of – Bailiff Position for the Budget Year 2015-2016 and Rename from Court Bailiff to Court Bailiff/Clerk I.

Carol Virden, City Clerk/Treasurer said the correct motion before hearing from Judge Mansell and Virginia was to open discussion on that matter and then possible action.

Councilor Morales moved for Discussion and Possible Action - Judge Mansell - Bring Forth and Revisit Bailiff Position for the budget year 2015-2016 and Rename from Court Bailiff to Court Bailiff/Clerk I – See Job Description. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Approval of City of Ruidoso Downs Preliminary Budget Fiscal Year 2015-2016.

Mary Castaneda, Finance Director asked Council to open their books for discussions and final considerations. She said in the side pocket was the information for the 80/20 and 90/10 insurance. Behind that are the salary sheets for the employees who did not receive a raise for FY 2014-2015. It includes the four part-time employees that it requested for \$.99 an hour. Behind that is the gross receipts total and I made a copy of last year and this year and then in the yellow highlighted area at the bottom is the actual total dollar amount we are down from last year's gross receipts at this time. We're actually down \$187,213.06 from last year's report through May. Your Table of Contents behind the yellow page is the actual insurance where it shows the increase of 8%. This is only on the health insurance and did not affect the life insurance and then the paperwork from the insurance company showing those rates. Behind tab number one it shows the actual cost of those raises for those employees that were on the listing in your side pocket in front of the budget. I was also asked to put in the salary range of a new Compliance Officer at the lower rate of \$12.25 so you can review that for reference. Behind that is the salary budget sheet for all departments and in that it includes the \$1.25 raises for those who did not receive a raise. No Bailiff. No

Building Inspector but added the Compliance Officer at the higher rate of \$13.50. There are two pages of salaries and they are totaled by department. Behind tab number two is first the DFA Recap Sheet. It shows the estimated cash balances and I took the cash balances off of the March Quarter Report and rounded them off and put the cash balances in there so you could see the local reserve requirements for the budget. The next page behind that one in the DFA Recap Sheet showing no cash balances so you can see each line and we'll start with the General Fund. Starting out with revenues at \$3,346,000.00. Budgeted transfers \$22,812.00. Budgeted expenses of \$3,280,641.00. Leaving an ending black cash balance of \$27,093.00. The same holds true down the rest of the revenues. I will go over each line item if you want but each are in the black with the exception of the Lodgers' Tax which is a red and a black and is a zero effect. Behind this recap sheet is the actual Budget Worksheet that I have keyed in those budget figures into each fund. If you look at those you can see 2014/2015 and then the 2015/2016. Behind the budget sheets are the actual requests from each department that was started when we had the budget meetings. I left those in there for reference. In the very back pocket there is one more recap sheet. I was requested to put in. It's two pages. This recap sheet is showing the \$1.25 raise for those who did not receive a raise but I added in the Bailiff position so you could see what that would do to the General Fund.

Mayor Williams asked if the City considered the 80/20 benefit package over the 90/10 what would that savings be?

Donna Miller, Payroll/Personnel said approximately \$66,380.00.

Mayor Williams said previously you mentioned 8% and that has gone up every year or is this the first year?

Mary said last year we did not have an increase. I don't have that information for past years.

Mayor Williams said on the gross receipts tax for eleven months of the year we are down \$187,000.00 from last year. We are a small City with limited resources for GRT. I don't know if it's all on us or other areas and I don't know if Tax & Rev can identify it. We had a discussion about payroll about the Bailiff and Building Inspector. That's two employees that have been working with the City for a number of years who are being told that your job is no longer there and will no longer be working for the City. The Building Inspector is being downsized to a Compliance Officer for a lower rate. It's difficult to know that you are letting people go through no fault of their own on a budget that shows increases in salaries. Revenues are down and costs are up. The salary increases were necessary to compensate employees who were not originally allowed that benefit. That's an extra cost that wasn't expected. The 80/20 was presented but not accepted and that would have saved some money.

Councilor Morales said we need to answer to the citizens. It's not our money it's the tax payers money. I want to be clear that we are offering the Building Inspector a position and not just letting him go.

Councilor Ritter said as a Council we need to be aware that we are facing a shortfall and additional may have to be made to balance the budget.

Mary said at the beginning of our workshop sessions on the 18th and 19th I did advise that the figures I had in here on our revenue source is showing our current gross receipts. I kept them. I did not cut them down by the \$187,000.00. The reality is that DFA could say okay, we got your preliminary budget, you're down 20% and you need to cut those revenues by \$187,000.00 in order to balance. I can submit it as is but again that is with the hypothetical figure for gross receipts remaining at least where we are this year but knowing we are down \$187,000.00. We have not met our revenue for this year. It could affect our new fiscal budget. Yes, absolutely. I will submit the preliminary budget as you instruct me to and put it to DFA. If they have questions then we'll come back and address those. She said DFA did question my figures and I asked them to please look into it. They are investigating to determine why we are down.

Mayor Williams entertained a motion for approval – City of Ruidoso Downs Preliminary Budget Fiscal Year 2015-2016.

Councilor Ritter moved for approval – City of Ruidoso Downs Preliminary Budget Fiscal year 2015-2016. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Approval of Renewal Agreement for Professional Services between the City of Ruidoso Downs and H. John Underwood.

Councilor Morales said she would excuse herself from discussion and vote because I work for Mr. Underwood.

Carol Virden, City Clerk/Treasurer said this will be the fourth renewal. The agreement will expire on June 14, 2015 and will renew to June 14, 2016 for the compensation of \$12,000 plus GRT payable on a monthly basis.

Mayor Williams entertained a motion for – Approval of Renewal Agreement for Professional Services between the City of Ruidoso Downs and H. John Underwood.

Councilor Miller moved for – Approval of Renewal Agreement for Professional Services between the City of Ruidoso Downs and H. John Underwood. Seconded by Councilor Perry.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Approval of Mutual Aid Fire and Rescue Response Agreement Between the Village of Ruidoso, NM Ruidoso Downs, Mescalero and the County of Lincoln, NM.

Kenny Ellard, Fire Department explained the agreement.

Mayor Williams entertained a motion to approve – Mutual Aid Fire and Rescue Response Agreement Between the Village of Ruidoso, NM Ruidoso Downs, Mescalero and the County of Lincoln, NM.

Councilor Ritter moved to approve - Mutual Aid Fire and Rescue Response Agreement Between the Village of Ruidoso, NM Ruidoso Downs, Mescalero and the County of Lincoln, NM. Seconded by Councilor Perry.

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

The next item on the agenda was from the Consent Agenda – Discussion and Possible Action – Wastewater Treatment Plant – Invoices – April 2015.

Councilor Miller moved to approve – Wastewater Treatment Plant – Invoices – April 2015. Seconded by Councilor Perry.

Roll call votes: Councilor Perry, Aye; Councilor Morales, Aye; Councilor Miller, Aye; Councilor Ritter, 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 said these figures are from the end of April. Lincoln County Transit had a beginning cash balance \$43,618.04. Revenues of \$1,581.00. Expenditures of \$7,270.08 leaving them an ending cash balance of \$37,928.16. The museum had a beginning cash balance of \$16,174.18. Revenues of \$9,294.40. Expenditures of \$21,744.18 leaving them an ending cash balance of \$3,724.40.

Mayor Williams stated the next item on the agenda was – employee of 1st Quarter 2015. He said that was Patricia Valdez. She works hard on cleaning the museum and City Hall. Dedicated and enthusiastic.

PUBLIC INPUT

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

Wayne Williams said I've been coming here for over twelve years and have been asking the same question for twelve years. Maybe now that we are having a shortfall in our General Fund, correct me if I'm wrong, it is my impression that we get no sales tax from the track because it goes through Santa Fe and the racing commission. The sale barn is owned solely by Hubbard. It has nothing to do with the track and has multi-million in sales each year. They sell hundreds of horses every year. Why are we not so much as getting a penny on that? You want to get your budget up so you can get raises for your employees. I was told that we don't bother Mr. Hubbard. I want to know. If he has millions and millions of dollars selling horses and he is the sole owner of that it is a business separate from the track. You're talking another two or three million dollars in sales tax alone. I have yet in twelve years gotten an honest answer to that. Maybe now that you can't meet payroll you'll ask yourself that question.

Pam Williams said there are properties on Joe Welch Dr. and there are three properties there and I think the man who owns it lives in El Paso. This property is covered in those thistles. I'm curious if I can go mow them so we don't get them again. Can I do that and not be liable?

Judge Mansell said for Mr. Underwood's contract there was nothing said about a secretary only his assistant.

Mayor Williams asked Judge Mansell to get with the Finance Department.

Scott Brady said I was the Building Inspector and when I was hired I was the Building Inspector and Code Enforcer. In my office I have my job description that says Building Inspector and Code Enforcement Officer. If the building permits were supposed to generate 65% it never happened before. It wasn't written down and if it was I'd like to see that. If it's not then it's just not good ethics. I was also hired as a Code Enforcement officer a year before Gilbert. So, what I'm wondering is am I getting fired as the Building Inspector and Code Enforcement officer but you want to hire me back as a Code Enforcement officer again. I have also been told that from the Building Inspectors that I talked to in the state about 90% all of them do flood plains and signs and Steve does that. The other Code Enforcement officer gets the zoning certificates and has been encourage to study for Building Inspector and I've never been offered any extra training. He got extra money for those. I know the decision has already been made and it's a done deal so I'll just wait.

Virginia Armstrong said I'm a citizen of Ruidoso Downs. Back in February/March you all gave tremendous raises to lots of employees. If we are 27% in the red how do you justify giving raises when there is no money?

CLOSED SESSION

Limited Personnel Matters Pursuant to Section 10-15-1 H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee.

Any action taken as a result of the Closed Session will be brought back into Open Session.

Mayor Williams entertained a motion to go into Closed Session for Limited Personnel Matter Pursuant to Section 101-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee.

Councilor Morales moved to go into Closed Session for Limited Personnel Matters Pursuant to Section 10-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee. Seconded by Councilor Perry.

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

Mayor Williams closed the regular meeting at 6:24 p.m. and invited H. John Underwood, City Attorney, Alexandra Bobbit, City Attorney, and Carol Virden, City Clerk and called for a five minute recess.

Mayor Williams entertained a motion to go back into Open Session.

Councilor Morales moved to go back into Open Session. Seconded by Councilor Ritter.

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

Mayor Williams called the regular meeting back to order at 8:43 p.m. and asked that a member of the City Council attest to the fact that the only items discussed in Closed Session were Limited Personnel Matters Pursuant to Section 10-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee.

Councilor Miller attested to the fact that the only items discussed in Closed Session was Limited Personnel Matters Pursuant to Section 10-15-1, H.2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee and no action was taken in Closed Session.

Mayor Williams entertained a motion for action.

Councilor Perry said I'll make a motion on the action that was taken. Help me on this.

Councilor Ritter said we are taking action.

Councilor Perry said there was no action but we're fixin' to take action.

Councilor Perry moved to suspend the employee starting June 4th for a period of five days. Five working days.

Mayor Williams said for clarification the motion from Councilor Perry that action be taken to be considered by Council is to suspend the employee for five days beginning June 4th without pay.

Seconded by Councilor Ritter.

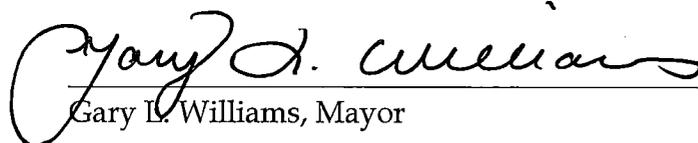
Carol asked are you going to name the employee?

H. John Underwood, City Attorney said no.

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

ADJOURNMENT

There being no further business to attend to Councilor Morales moved to adjourn at 8:45 p.m. Seconded by Councilor Perry.


Gary L. Williams, Mayor



Carol Virden

Carol Virden, City Clerk/Treasurer