

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
AUGUST 10, 2015
4:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on August 10, 2015. Mayor Williams called the meeting to order at 4:30 p.m. and asked Officer Winrow to lead the Pledge of Allegiance. Mayor Williams asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Miller
Councilor Morales

Councilor Perry
Councilor Ritter

Carol Virden informed Mayor Williams there was a quorum.

Also present:

H. John Underwood, City Attorney
Alexandra Bobbit, City Attorney
Mary Castaneda, Finance Director
Steve Dunigan, Planning & Zoning Director
Dale Graham, Project Manager
Christopher Rupp, Police Chief
Dakota Crouch, Associate Director HMAW
Dale Graham, Interim Public Works Director

APPROVAL OF AGENDA

Mayor Williams stated the next item on the agenda was Approval of Agenda. Under Unfinished Business I would like to remove Item A, B, C, & E. They have not yet been processed properly to present to Council with the information needed to make a decision on those. Also, a correction on Item C under New Business it should read 'Lots 2 and 24.'

City Clerk, Carol Virden asked on your Unfinished Business A, B, C, and E you're going to postpone or remove indefinitely?

Mayor Williams said I'd like to postpone Unfinished Business Item A, B, C, and E to the August 24, 2015 meeting.

Mayor Williams entertained a motion to approve the agenda with postponing Unfinished Business Item A, B, C, and E to the August 24, 2015 meeting.

Councilor Miller moved to approve the agenda with postponing Unfinished Business Item A, B, C, and E to the August 24, 2015 meeting. Seconded by Councilor Ritter.

City Clerk, Carol Virden said under New Business Item C is going to be left as is and then Ms. Bobbit is going to explain where Lot 2 comes into play.

Mayor Williams asked Council to disregard changing Item C under New Business.

Mayor Williams entertained a motion to remove those four from Unfinished Business.

Councilor Miller said I made that motion.

Mayor Williams said and we had a second from Councilor Ritter.

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

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JULY 27, 2015

Councilor Morales moved to approve Minutes of Regular Meeting of July 27, 2015. Seconded by Councilor Ritter.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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

PUBLIC HEARING

Planning Appeal Hearing of P & Z Case No. 2015-01, Ms. Amie Anderson - Appellant: Resume a non-conforming use (Horses) on M-1 Residentially Zoned Property located at 122 Riverview, Ruidoso Downs, New Mexico.

Mayor Williams asked Steve Dunigan, Planning & Zoning Director said there is an appeal by Amie Anderson of the denial by the Planning & Zoning Commission on June 2, 2015 of her request to resume a non-conforming use. I'm going to give a little bit of background which will bring us to the actual ordinance that she is here to appeal the denial of. I'm going to start with some information. Ms. Amie Anderson is appealing the denial by the Planning & Zoning Commission of her request to resume a non-conforming use. That would be horses on her property located at 122 Riverview Drive which is residentially zoned as M-1 and does not permit horses. Ms. Anderson originally came to the Planning Department in November 2013 to ask about a horse property she referenced as the Burelsmith property. She told me she had been asking people and friends about horse property and had been told by Mr. Clint Wright to look at the Burelsmith property that is located at 113 Park. I told her the Burelsmith property is recognized the City of Ruidoso Downs as having an ongoing non-conforming use or grandfathered for horses and that she would be fine on that property. Ms. Anderson left and I did not hear what she decided to do. The next month on December 20, 2013 I received a phone call from a property owner on Riverview Drive about some horses on the Graham property located at 122 Riverview Drive. I sent our Code Enforcement Officer to inspect this property and to advise the resident that the property is zone M-1 and does not allow horses. Gilbert called me to let me know that it was Ms. Anderson and that she said everyone told her that horses were okay for this property. Ms. Anderson came into my office on December 26, 2013 and I told her that she really didn't have any options because she bought this property in an M-1 Residential zone that doesn't allow horses and that she really doesn't have an option for a variance or a conditional use. I told her that I would have to think about her situation and that I would get back to her as soon as possible. I called Ms. Anderson back on December 30, 2013 with Donna Miller present and told her that she really did not have any other option than to remove the horses. I told her we would write a letter and give her thirty days to make other arrangements for the horses. Ms. Anderson signed for this letter on January 3, 2014. During the period after Ms. Anderson was told to remove the horses and her eventual court appearance on April 23, 2015 the City passed an Ordinance Amendment 2014-03 to the Non-Conforming Use Chapter 155.078 Section E that would allow a request by a property owner to resume a non-conforming use even after a twenty-four month gap if they could demonstrate that a verifiable non-conforming use previously existed on their property along with the ending date of the original use. Ms. Anderson was given the opportunity to present a request to the Planning & Zoning Commission as one last remedy to her zoning problem for horses and she presented her case on June 2, 2015. The Planning & Zoning Commission denied her request and found that Ms. Anderson failed to

demonstrate that a verifiable non-conforming use previously existed on her property along with the ending date of the original use. Ms. Anderson was advised that she can appeal this decision with the City Council which she elected to do. Ms. Anderson picked up her appeal application on June 3, 2015 and turned it into us on June 16, 2015. Letters of acknowledgement of receipt were mailed on June 17, 2015 and three other letters mailed on June 30, 2015 to Freda McSwane, Michael and Christina Weise, and Pam Williams. The appeal hearing was set for August 10, 2015. Four letters for Hearing for Appeal were sent on July 10, 2015 which was thirty-one days before the hearing and then seventeen letters were sent of Hearing for Appeal sent to the two hundred foot radius property owners were mailed on July 27, 2015. We have received three responses back in the negative and there were no returned letters. That brings us to tonight of that appeal of the denial by Planning & Zoning Commission and I think that the case is pretty much the same as it was at that time and that's all I have for tonight.

H. John Underwood, City Attorney said this is an appeal of the Planning & Zoning Commission and I think I would like all of the testimony sworn to so I'm going to have any witnesses sworn in. And Steve, in order to have your documentation and your statement as sworn testimony I'm going to ask you to raise your right hand.

H. John Underwood, City Attorney stated: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

Steve Dunigan, Planning & Zoning Director said, "I do."

H. John Underwood, City Attorney asked Steve, "Do you stand by the statement that you gave to Council?"

Steve Dunigan, Planning & Zoning Director said, "Yes."

Mayor Williams said as John stated each witness that presents will be sworn in and the Public Hearing is now open. Please come up, state your name, and we will go through that process.

Freda McSwane said if possible I would just like to make an opening statement as an attorney. We're going to be brief. I think that this is a situation that I know that this particular application and this problem has been before you and you probably know more about it than I do. I think that there are a couple of things, and I will have Amie testify to these things, but I'd like to just wrap it up a little bit for you on some of the things that you didn't hear from Mr. Dunigan when he talked to you. First of all, you should have seen at some point in time because I know Mr. Dunigan has a copy of it. When Ms. Anderson first came to the Village she was looking at a piece of property that was up for sale. Burelsmith wasn't up for sale so I'm not sure where the Burelsmith came in. The piece of property that was up for sale was 218 Riverview and that's important because right now we're here on

what I see on the Hearing Notice is 122 so I'm not sure how 218 Riverview became 122 or when it became 122 but if you drive by that piece of property it still has the 218 sign out in front and that's how people find that place and that's how she gets things delivered and it's still on the piece of property. So, 218 Riverview Drive was up for sale and Mr. Bill Pippin Realty had that piece of property up for sale. Ms. Anderson was only looking for a horse property. She was not going to buy anything that wasn't. She was waiting until something came on the market. This piece of property came on the market. Mr. Bill Pippin instructed her to go down, come to the Village, talk to Mr. Dunigan to make sure that this piece of property was a horse property, not the Burelsmith property or some other property but this piece of property with this listing of 218 Riverview Drive. She will tell you that she came down here with this listing agreement. She provided a copy to him. That she asked him, "Is this a horse property? Can I have horses there?" She was assured she could have horses on that property. Based on that assurance she did everything that I think that you could ask any individual to do to make certain that she was allowed to have animals on that property. I wasn't with her at the P & Z. I didn't represent her. She came to me after that a little bit overwhelmed, confused, and it gets a little bit overwhelming I think for just an individual to go through the process. She ask if I would come and try to clarify some of the things that she has had a hard time making people understand about this. She came to the Village, the City of Ruidoso Downs, and she asked and she was told this was a property that she could have horses on. So, she went ahead and bought the property. Looking at her Restrictive Covenants which I think you also have a copy of that particular lot also allows for there to be horses there. I think that one of the problems and at least a portion of you I think at some time Mr. Pippin has told me that he's already been here and has explained the problems that it was listed as a horse property and that's why she was interested in it and that's why she purchased it. One thing, when Amie came to see me, she, I think there may have been a couple things that maybe she didn't present to Planning & Zoning that might have made a difference. One is, I think that they were desiring an actual copy of a survey that has the out buildings as they lay on the property and she has that and we have plenty of copies if you need to have those copies. The second thing which I think is the most crucial thing for her is as a part of this appeal, and she has the ability to bring her own testimony or statements or letters or whatever, she has brought with her a letter from Hoyt and Kim Graham. The Graham's were the previous owners of this property. The Brown's purchased the property in May of 2004 and they owned the property up until the time she purchased it. They have provided a letter to you which I will have copies passed around that says that they purchased the property at 218 Riverview and they sold it as 218 Riverview in May of 2004 and that the person they bought the property from had kept his horses on the property up until the time that they purchased it and that he built a very nice barn that has enclosed stalls and I think at the time Amie purchased it she'll tell you that there had been ten stalls inside that barn. It now only has three. But, you'll see that he says it's specifically to house horses and although they personally didn't keep horses on the property full time that their renters would have them there from time to time and they utilized as most people do in Ruidoso Downs when the influx of horses come in for the racing season and there's horses on the property. There was never a time that this went two years without being a horse property or one year without being a horse property.

There were horses in and out of there the entire time that they owned that property. So, I think that those are some maybe critical things that weren't part of the presentation that was made to Planning & Zoning and I think that they are very critical. This is a situation where I think that there has been some confusion over the actual address of this property maybe when she came here and Mr. Dunigan was looking at the particular piece of property the he may have looked at a different piece of property which he calls the Burelsmith property but I don't believe the Burelsmith property was at 218 Riverview. Certainly she would never have purchased this property because her livelihood is dealing with horses. She would never have purchased that property if she had not done everything that she possibly could by coming here and making sure before she purchased the property that it was a horse property where she could utilize it.

Mayor Williams asked if anyone wanted to attest to what was just stated in favor of?

Mayor Williams said first of all, Ms. Anderson do you want to say anything at this hearing?

Mayor Williams asked her to state her name.

She stated her name as Amie Anderson.

H. John Underwood, City Attorney swore her in: Do you solemnly swear and affirm that your testimony today will be the truth, the whole truth, and nothing but the truth under penalty of perjury?

Amie Anderson said, "Yes."

Amie Anderson said I came in before purchasing the property with everything that Bill Pippin had given me. The aerial plot from Eagle Survey and I inquired about if it's still zoned for horses to make sure because I was going to purchase the patch and my escrow closed very shortly in three days. So I wanted to make sure that I could have horses on this property. That was our sole purpose. He assured me that it was zoned for horses and grandfathered for horses. That only came through one realty and that was Bill Pippin. I only bought one piece of property and it was this property on Riverview Drive. I would never have purchased it if I had known I would have to go through this. That's all. It serves me no purpose.

Freda McSwane said we also have Mr. Bill Pippin here and I think he would like to make a statement.

Bill Pippin said I didn't know I was coming to say anything. I thought I was just coming to listen.

John Underwood said Mr. Pippin: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

Mr. Pippin said, "Yes."

Mr. Pippin said it's a long story if you get into it. We did list this piece of property for sale. We advertised it as a piece of property that you could have horses. I have sold this property a couple of times prior to this time. I didn't have the listing. Doris Husky did and I'm the broker. Doris was the one that worked with Amie. Doris is the one that told Amie to come to City Hall to see Mr. Dunigan. I was told that Mr. Dunigan told her that she could have the horses. After the fact Amie was told that she could not have the horses. Number one, if this property had I know about this ordinance, we would have never listed the property as a horse property. We would have never advertised it like that. After the fact when all of this problem came up it was actually a listing of one in particular that an agent was listing as a horse property. We already had two people complaining about this. The ordinance was apparently passed sometime prior to us listing this property for sale. I was unaware of that ordinance when I had a visit with Mr. Dunigan. I was told that I should have known about this ordinance. Believe me, if I'd have known about it I wouldn't have advertised that property as a horse property. I told Mr. Dunigan in a comment that one email would have taken care of this whole problem. If he would have sent an email about this ordinance to the CEO the CEO would have gotten it out to the realtors and no realtor would have advertised any property for sale that you could keep horses on. I was at a Qualifying Brokers meeting when all this stuff came out and I brought this up and some very prominent realtors in town had no idea of this ordinance. They came to be afterwards and said if someone would have asked me for horse property I would have taken them to Ruidoso Downs and showed them and probably sold them one. I think some communication would have solved all of this problem to start with. We did send Doris just as a precaution to check out with the City if it was okay to have horses. She was under the impression she could have horses. I think you probably know the rest of the story.

Michael Weise said I live at 118 Riverview Drive.

H. John Underwood, City Attorney stated: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

Michael Weise said, "I do."

Michael Weise said for the majority of my adult life I've lived in that area from way back when my grandparents resided there. Joe Smith was the original owner at least thirty years ago and I used to go over to help him from time to time. At that time I don't even remember him having horses on his property. He was just doing his saddles which he did in the back room in that building. Prior or shortly thereafter, I think Bill has been married

four times, I'm not absolutely certain because last time when his one wife passed away he moved to Lincoln, so he's been out of that area for quite a while too. It remained vacant, I can't quote how many years, but with the amount of years it was looking pretty dilapidated. I think his granddaughter moved into it for maybe one year, maybe two maximum. Then it was vacant again for quite a period of time and then Hoyt Graham took an interest in the property and purchased it and I believe he purchased it for his son Adam Graham. Adam resided there for probably five years and then he had a motorcycle wreck up here in front of one of these steakhouses on Sudderth Drive and was paralyzed. They moved him out and over to Carrizozo Canyon. Shortly thereafter, probably three or four months after, a gentleman by the name of Gary Graham moved in there. Gary Graham just lived in there approximately five to seven years. No horses of any kind. I do have that individual with me and I noticed that Dale Graham is also in the room and he can also testify that there have been no horses on there for a minimum of ten years. Whether my history going back thirty years means anything or not I mean this would clearly show that that there's no two years of history with horses. No horses in and no horses out. Not even periodically. That property really I don't see how it could be a non-conforming use. The other part of that is every day they keep the horses there they are going against code for one. There's not supposed to be any kind of horses, pigs, chickens or anything down there. Another thing is zoning. They're going against zoning every day. That's an M-1 Mobile Home Residential zoned area. Then there's the nuisance, the flies. We have had to put up with flies every year that I've been there but never to the volume of these previous years. I really can't expand on this any more than that but I did bring some individuals that could speak to everything that I have said.

Gary Graham approached to speak.

H. John Underwood, City Attorney stated: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

Gary Graham said, "I do."

Gary Graham said my brother owned that up until I moved in there. I was trying to buy it but I never got it signed actually to my name but he kept it. I lived there from I think it was 2007 until almost 2012 and before that there was never horses there. My nephew he lived there. The whole time that I was there and the reason I put up the fence is because the City made me put up a fence because I had cars. The whole time I was there and before that there were never any horses or any kind of animals. She stated that there were ten stalls in that place. There were only four. I turned the barn into a garage. The whole time I was there it was all grease and dirt. There were no animals except for a couple of cats and that's it.

Pam Williams approached to speak.

H. John Underwood, City Attorney stated: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

Pam Williams said, "Yes."

Pam Williams said I don't live anywhere near this property. But, I have stayed with the situation that's going on and I usually, up until the last month or so, I remember when we came before the City Council made the use of some properties if people paid like two hundred dollars, and I may be wrong on the amount of what they paid, you know when they sent in an application and then they paid and they were able to keep horses there. I think I'm right. I know I am. It happened. Anyway, these people, Ms. Anderson paid that. She went through the whole process as she thought was right and she was told that this was horse property. Then she came back once she had bought it and moved in and then she found out that it wasn't. To me that's harassment because it's gone on and we've let all these other people have their horses. There's horses here in the City. There's people whose horses are right in other peoples kitchen window. They accepted her money and I feel like once they accepted her money that it made it secure for her. It was a done deal. Otherwise they should have never taken her money. We change the laws for some and some we don't because every ordinance is not followed over the whole City. You could say now once she gets rid of the horses and then told that's not a horse property but I think it was allowed as a great misunderstanding. It's shameful on the City's part.

Michael Weise said the young lady that just presented an argument just out of the kindness of her heart, there's only one horse property down there and that's off of North Central and that's Fernando. Burelsmith is the other property and anyone who has bought that property has no intentions of putting chickens, horses, or anything on it. It's a done deal. The only people I'm aware of at this point with any horses would be over there at the Sports Theater over there where Clint Wright and some other people reside up off of DiPaulo or Wood Lane up in that area. So, I don't understand where she's coming from when she states all these other horses and all these other property owners. I'm kind of lost in that regard. There is only the one right now and it's Fernando and that's off of North Central and that's right up against Harrold Mansell's property. Why he hasn't complained I don't know but he hasn't. At this point if they were granted this non-conforming use which again I don't see how it could happen at that point I see where the City is setting up a bad precedence and they're also allowing an island so to speak for one individual. There are other neighbors in the area and I do try to talk to them. Not all of them are happy about it. They are just concerned about coming forth. Again, that statement, I just don't know where it stems from other than just the goodness of her heart trying to do somebody some sort of good.

Wayne Williams approached to speak.

H. John Underwood, City Attorney stated: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

Wayne Williams said, "I do."

Wayne Williams said I really don't have a dog in this hunt at all. Personally I don't care if I never saw a horse again. That being said there is only one innocent party in this whole instance and that's the lady that bought the property. There ought to be an accommodation of some kind either by the City or the people that sold her the property. I know when I buy a piece of property, and I've got several over there, you go in the real estate office or the escrow office and they start shoving papers at you and you just start signing. You have no idea what you're signing. I don't have the education to know what all this stuff means. I trust the people that sold it to me and I trust that the City is going to be honest about the zoning. There is only one innocent party. Only one. The City was wrong. The Planning & Zoning was wrong. The people that sold it were wrong. The only innocent party is the one that bought it. There should be some kind of accommodation that the City can make or the honesty of the realtor should step up and do something. I don't know. I'm just thinking out of the good sense of what's right and what's wrong. This lady should not be punished for accepting your word for it. When I say your I'm talking about the City and the Planning & Zoning and the realtors. If I had bought a piece of property assuming that it was this I can't even imagine how mad I would be.

Gary Graham said the reason why the address got changed when I moved down there the address was 122 but the City made me change it. They changed all the, I was getting mail and I wasn't getting mail there and they told me I had been changed to 218. I don't know why they did that but just to answer the question why 122 and 218 is. I put 218 on there because the City made me do it.

Michael Weise said the previous gentleman that was just up here stated that he doesn't know how he would feel if he assumed. First of all if you assume and you don't do your work ignorance of the law is no excuse. Secondly, trying to put blame on City Council and Planning & Zoning your neighbors is not right either. There's more than one individual here who is innocent. That's myself and any other neighbor around there that didn't have horses prior to this individual moving horses on there. I have as much right to be happy at my residence that I've been living on for several years prior to this horse moving in there. I know everybody means well but I have firsthand knowledge as to the individuals on 218 and everybody else is coming up here and speaking, they are getting third-hand knowledge and they are hoping and helping and everything but they are convoluting the issue and the issue is still the same. It's an M-1 zone against the ordinance and there's no way they are going to be able to make that two year special use. I don't plan on getting up after this part. I'll just let everybody else go on and do their thing.

Bill Pippin said listening to this is kind of amazing. It's always been my opinion and without assuming anything and the Restrictive Covenants tell you exactly what River Park was put in there for and it was zoned where you could have horses. Now there were limitations on how many horses you could have to a lot and Mr. Dunigan can tell you that. If they had a big house naturally that would limit the amount of horses they could put on it. That being said, and me living right next to it, there are numerous people down there that have horses. Joe Smith happened to be a personal friend of mine and I was in his house when he took me out and showed me his horse so I know horses were there. I sold that piece of property like I said several times. I think the reason that the subdivision was put in was because of Ruidoso Downs which I think is a fantastic income project for the taxes that are paid to Ruidoso Downs. Any part of Ruidoso Downs wouldn't exist without that race track and I think we all know that. The realtors are not going to knowingly advertise a property for sale that you can keep horses on it if they know you can't keep horses. I think there was a problem there. Maybe we're supposed to keep up with the City of Ruidoso Downs ordinances and what they've changed but I don't read that stuff and neither does the rest of the realtors. That's why I made the statement that a simple email would have taken care of that whole thing. People buy into a subdivision where you can keep horses and all of a sudden when this ordinance is passed and then well you know, that is strictly for mobile homes. They're opposed to it. They can buy somewhere else if they didn't want to live in a place where you can keep horses. When I got word that Amie had got a conditional or unconditional excuse or whatever to keep her horses there that tickled me because I thought the City of Ruidoso Downs had done the right thing. I think one way to work through this was fine but let her keep what horses she could, was allowed to keep, with the understanding when that property is sold there will be no more horses there. It's just a situation where no one knew about it sort of. I've talked to numerous people in Ruidoso Downs that never got any notification that this ordinance was up to be passed. I'm hearing things that I don't like to hear but I think we got intelligent people sitting here and I think they'll make the right decision.

Freda McSwane said I don't know if you've been given a copy of the covenants in anything that you have. If not I'll be glad to give you a copy. In the covenants it talks about those particular lots in the subdivision in which horses are allowed.

Freda handed out copies.

Alexandra Bobbit, City Attorney said I would like to clarify some point if I may. I have been in this pretty much since day one. I was the attorney in this matter that is the City of Ruidoso Downs when this case with Ms. Amie Anderson came up. At that time we did not have the conditional use ordinance. It hadn't come into play yet. We did however have a meeting between a few of Mr. Pippin's realtors along with Mr. Pippin, Mr. Dunigan, and I. At that meeting as attorney Freda McSwane was showing you we did discuss the restrictive covenants. The problem was that at that meeting the realtor admitted that they did not follow the ordinance and that they simply follow the restrictive covenants. That realtor actually admitted that they didn't think that ordinances overrode restrictive covenants.

They thought restrictive covenants were the ones that govern. It's problematic because obviously the only thing that was looked at was the restrictive covenants which do state that horses are allowed. However, the ordinances that were passed several years prior to this property being listed stated that it was an M-1 zone and that horses could not be allowed on that property. That was the first initial issue that we had. At that point with the horses there were still some other issues that came up with Ms. Anderson and the horses weren't able to be moved. That was also at a time when there seemed to have been a misunderstanding as to properties and horses and so it had to come to the Planning & Zoning Commission which was then passed by Council who allowed a conditional use. I believe that ordinance states that you would have to show that there were horses on the property within the past two years in order to have horses on that property. There was a definition that we used that has been properly applied for by other members of this community in which that of conditional use has been approved by this Council that initially had been approved by Planning & Zoning Commission. The situation again in this matter was when the conditional use ordinance went through we contacted Ms. Anderson and her attorney, or at least her attorney, to let them know that this was now an option for her. It was basically radio silence for well over six months and Mr. Dunigan attested to the exact time period on that. Either way, the conditional use went into effect and there was nothing from Ms. Anderson to the point where Planning & Zoning actually had to reinstate their look into their property and the case was brought due to the fact that she was now in violation of that conditional use as well because she never actually applied for it. Finally Ms. Anderson did apply for the conditional use permit and she went through the same process as various other members of this community have done or to go through Planning & Zoning. Unfortunately Ms. Anderson did not make it past the Planning & Zoning Commission. To clarify in terms of the same application fee was paid by other members of the community that have been denied and have been granted conditional use permits and the exact same process has been applied to other members of the community following the wishes of Council and the ordinances put into effect. That clarifies the situation that we have now. The ordinance is factored in and not only whether there has been and whether that use has been on that property in the past several years but it also asks for the surrounding neighbors and that is also factored in to that ordinance. That is how we arrived to the situation that we have today.

Williams Dunlap approached to speak.

H. John Underwood, City Attorney stated: Do you solemnly swear and affirm that your testimony that you just gave was the truth, the whole truth, and nothing but the truth under penalty of perjury?

William Dunlap said, "Yes sir, I do."

Williams Dunlap said I own and live at a piece of property at 110 Riverview Drive. As the crow flies I am not within the two hundred foot radius of the people you sent letters to. I've lived at this residence since September 2003 and just to reaffirm what some of the other

people have said is I have not witnessed any horses on that property for the entire time I've been here. I have witnessed the Graham's both Adam and the other ones being there. I witnessed Hoyt Graham rebuilt the property to sell it and I also witnessed that Ms. Anderson bought the property. If I'm not mistaken I'm actually the one that brought up the idea or the premise that there were horses on that property when Ms. Anderson moved them on to Mr. Steve Dunigan. That's all I actually want to testify to at this point is to reaffirm that there hasn't been any horses on that property since I've been there and that's September 2003.

There were no other testimonies.

Mayor Williams closed the Public Hearing.

UNFINISHED BUSINESS

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Approval of Agenda Briefing Memorandum - Lease Agreement between Hubbard Museum of the American West and Lotza Stuff Storage.

Mary Castaneda, Finance Director said I am asking for the approval of the lease agreement between the Hubbard Museum of the American West and Lotza Stuff Storage.

Dakota Crouch said what I bring before you currently is a request for permission to renew a lease agreement with Lotza Stuff Storage. We currently have five 20 x 20 storage units and they have portions of our collections that we can't house on-site. I have reached out to two other storage facilities to see what their prices are. Lotza stuff comes in at \$75 per month per unit which comes out to a total of \$375.00 per month. The other two storage companies which are AA Storage and Packrat Storage their bids come in at \$83 per month per unit or for a total of \$415 per month and \$120 per unit per month for a total of \$600 per month. I am requesting authorization to renew our lease for one year with Lotza Stuff to continue renting those storage units.

Mayor Williams entertained a motion to approve - Agenda Briefing Memorandum - Lease Agreement between Hubbard Museum of the American West and Lotza Stuff Storage.

Councilor Miller moved to approve - Agenda Briefing Memorandum - Lease Agreement between Hubbard Museum of the American West and Lotza Stuff Storage. Seconded by Councilor Morales.

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

NEW BUSINESS

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

Mayor Williams said just a heads up for the citizens of our community this may be the last week for the Food Program for the kids in the park. It’s been a success again this year. The Farmer’s Market is ongoing and there were a lot of people there the other day. It’s every Saturday at All American Park through October 9:00 to 1:00. On the highway be cautious because they are repaving. It will be going on until the end of this month. The Agua Fria Sewer Project Phase I is all in the ground and they will basically just be making their checks now and sealing the manholes up and doing whatever repairs for the road. I would like to commend the Police Department for what occurred Friday at the stop light at Walmart. There was an operation going on to make our community safer and because of that there were forty violations and arrests from that operation. A lot of nasty stuff was caught on this operation and getting these people off the streets.

Mayor Williams stated 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 – Abandonment of Waterlines on Lots 23 and 24 located at 306 Sierra Lane – Lisa Wojack.

Alexandra said the property on Lot 24 is the one primarily in question. I believe there is a little site plan in there of exactly where that property runs through. First you see there is a spring and there are lines coming from that spring. The line that goes through 24 is the one that is being purchased right now by Ms. Wojack. The waterline runs right through her property and runs under one of her barns and making it difficult for her to purchase that property. That line is no longer in use by the City. It hasn’t been in use for well over ten years. The reason 24 is being brought into this situation is that in order to vacate that waterline and abandon it needs to be done within the subdivision. What we have prepared is a Notice of Vacation of the utility and then abandon the waterline. I also met with Mr. Graham on this issue and he also reinforced that the waterline is not used. The only one that is used is the one that come out and goes across Spring Road where there is a six inch line.

Councilor Ritter asked if we are considering abandoning the line across 24, 21, 22, 24, 2 & 5?

Alexandra said that’s the channel you’re looking at. The only line that’s there is the one that runs through 24 and then to 2.

Councilor Perry asked if they were going to get rid of 24 and 2?

Alexandra said yes.

Mayor Williams entertained a motion to approve – Abandonment of Waterlines on Lots 23 and 24 located at 306 Sierra Lane – Lisa Wojack.

Councilor Morales said I will make the motion to approve the vacation and prescriptive easement and abandonment of a waterline on Lot 2 and Lot 24 of the Spring Park Subdivision. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Jordan Rue – Payment Plan.

H. John Underwood, City Attorney said there was a judgement and sentence entered in Magistrate Court against Jordan Rue in the amount of \$1,500.00.

Alexandra Bobbit, City Attorney said this situation is that Jordan Rue had an accident within the City of Ruidoso Downs and was taken to Magistrate Court. The court entered a judgement against him. The City of Ruidoso Downs was going to have a little over \$2,000.00 for repair of a light pole however the City of Ruidoso Downs stated at the time they would accept \$1,500.00. So, that is what the Magistrate Court judgement for restitution was entered into. The problem is that the District Attorney's Office failed to follow up on executing the judgement sentence and it ran past the point of being able to bring it back up into that court. We were then notified by the District Attorney's office that should we want to recover that restitution we would have to pursue it civilly. As of this point there has not actually been a civil suit entered into yet between the City and Jordan Rue and that is because the City of Ruidoso Downs had me send a letter to Mr. Rue stating that he needed to follow up on the restitution or else we would have to file suit. He responded through his father who asked if he could make payments to the City of Ruidoso Downs. He works seasonal jobs so he makes some money but he is not employed full time so he was wondering if the City of Ruidoso Downs would accept monthly payments at \$50.00.

Councilor Ritter asked if we have ever done this before?

Alexandra said not since I've been here.

John Underwood said usually what happens is we have an action in Municipal Court and through that process they agree to pay 'x' amount of money for full restitution. In this situation it happened in Magistrate Court and the District Attorney that handles all matters of Magistrate Court informed us that they didn't follow through. I recommend that we enter into it so long as he is willing to enter into a written agreement that allows us to recover that \$50.00 a month and repercussions if they don't. Obviously \$50.00 a month for \$1,500.00 is going to be a two and a half year payoff. If they fail to meet the payment they

are going to end up having to pay the whole thing. I recommend that if they default there should be interest of some sort encouraging them to stick to the payment. I don't know if we have received any wage papers or income tax records from Mr. Rue showing his ability to pay or not to pay and we can do that. We were hoping Mr. Rue would be at the meeting tonight.

Mayor Williams entertained a motion to approve - Jordan Rue - Payment Plan.

Councilor Ritter asked if we have any other option?

John Underwood said we can sue him civilly for the \$1,500.00 but I don't think he can pay it. You can always ask for \$100.00 a month.

Councilor Morales said I would be more comfortable at \$100.00 a month and have it paid off in fifteen months as opposed to thirty months. At \$50.00 a month I'm afraid it's going to take way too long and with the understanding that if it's not paid then we will go what other directions civilly.

John Underwood said we could also charge interest of 8% if the payment is over fifteen days late.

Councilor Miller said I disagree and think it's great that he came forward to state that he will pay.

Councilor Morales moved to approve a payment plan with Jordan Rue to pay the City of Ruidoso Downs for the light pole at the rate of \$100.00 per month. Seconded by Councilor Miller.

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

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Resolution No. 2015-15 Adopting An Infrastructure Capital Improvement Plan (ICIP).

Dale Graham, Project Manager said on June 22nd and July 13th of 2015 we had Public Hearings to take input from the public on our Infrastructure Capital Improvement Projects for the fiscal year of 2017 - 2021. This is about a list of our most needed projects throughout the City. From those hearings we did make one change to our previous ICIP. Number 5 we moved up the list for the Hubbard Museum to 2017 for a new roof on their building so we are here tonight to ask for your approval on our ICIP so we can submit it to the State.

Mayor Williams asked Dale to explain more about funding for construction of City streets.

Dale said if they have good utilities underneath then it would entail tearing the street completely out and putting in curbs, gutters, new pavement and work it into our new drainage plan.

Mayor Williams entertained a motion to adopt – Resolution No. 2015-15 An Infrastructure Capital Improvement Plan (ICIP).

Councilor Ritter moved to adopt – Resolution No. 2015-15 An Infrastructure Capital Improvement Plan (ICIP). Seconded by Councilor Perry.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Approval of Municipal Arterial Program Cooperative Agreement – Project No. MAP-7627(908) – Control No. L200315.

Dale said we are here to ask Council to approve our agreement with NMDOT for this project. It will entail after we get the water main put in on Griffith Drive we will put in curb, gutter, and new pavement from Highway 70 all the way to the top of the hill to Escalante Street. I believe we got a \$266,000 match grant from the NMDOT and a 25% match. We will advertise it for bid for water to be put on that street maybe by the end of this week.

Mayor Williams said this is the first time we got this and asked Dale to explain.

Dale said it is a Municipal Arterial Program and we applied through our engineer at Dennis Engineering. They helped us apply because we didn't think we qualified for it.

Mayor Williams asked him to explain arterial.

Dale said it's the major way in or out of a place and we thought Griffith Drive was the major road that people take to get to the other streets in Agua Fria. We applied and NMDOT accepted our application.

Mayor Williams entertained a motion to approve - Municipal Arterial Program Cooperative Agreement – Project No. MAP-7627(908) – Control No. L200315.

Councilor Miller moved to approve - Municipal Arterial Program Cooperative Agreement – Project No. MAP-7627(908) – Control No. L200315. Seconded by Councilor Morales.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Approval of FY 16 Memorandum of Agreement “Between” The New Mexico Department of Transportation and City of Ruidoso Downs.

Mayor Williams said this is basically an agreement with NMDOT for funding for our transit. I think its \$138,000.00 that will be funneled into the transit system for fiscal year 2016 with federal and local matches. It is for administration and operations.

Mayor Williams entertained a motion to approve – FY 16 Memorandum of Agreement “Between” The New Mexico Department of Transportation and City of Ruidoso Downs.

Councilor Miller moved to approve – FY 16 Memorandum of agreement “Between” The New Mexico Department of Transportation and City of Ruidoso Downs. Seconded by Councilor Perry.

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

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Ms. Amie Anderson – Appellant: Resume a non-conforming use (Horses) on M-1 Residentially Zoned Property located at 122 Riverview, Ruidoso Downs, New Mexico.

Mayor Williams asked Steve Dunigan to come forward again for any questions.

Councilor Perry asked in if in the River Park area the Miranda’s were the only ones approved for horses right now? I’m sorry, Fernando.

Steve said yes. He’s located off of North Central and is what is considered grandfathered in.

Mayor Williams asked what it was zoned in that area?

Steve said M-1 Residential.

Councilor Ritter said as I understand it, 218 Riverview which is the listing that was provided, is also the same as 122 Riverview. It’s the same property?

Steve said the issue here is that the City changed addresses more than once and in the last 911 Emergency addressing project converts 218 to 122. There has been several efforts made on getting that property readdressed properly to 122.

Councilor Ritter said according to our information Amie Anderson owns that property. According to the listing provided for 218 Riverview for the 2013 sale a buyer’s name was

Rubish. I did a brief look up on County records and according to that Christine L. Rubish owns 122 Riverview Drive. Is that correct?

Steve said I'm not familiar with that.

Councilor Ritter said have you searched to find out who is the legal owner or I'm just trying to confirm that Amie Anderson does legally own the property.

Steve said we do not been provided any kind of title showing that Amie Anderson is owner right now. The property owners that we know right now prior to were the Grahams.

Councilor Ritter said according to the listing the seller's name was Graham. The buyer's last name was Rubish. Just a quick search shows Christine L. Rubish from North Park, California owns Lot 27A, 28A, Block 3, Unit II of River Park Addition.

Steve said I believe that would be her mother but I'm not sure.

Freda McSwane said the property when it was purchased the contact person was the person that you talk about who is also the trustee of the Anderson trust and is owned by the Anderson trust.

Steve said the property at 113 Park was owned by Burelsmith and was a property in the past that was the center of discussion by several others and was a property that I asked for an opinion by the previous attorney of the City, Zach Cook, as to the conforming or non-conforming use or grandfathered and horses on that property. It led to the current ordinance with the ninety day gap and it was determined that it would be grandfathered because it was a continuous every year in and year out seasonal use. There is a point here that no one wants someone to buy a property that's not going to be useful to them. The issue is simply this. We discussed the Graham property and the Burelsmith property is on a completely different street.

Councilor Morales said on this map that we have and you have the Graham property highlighted, where is the Burelsmith property in relation to that? Ah, never mind, it's been pointed out to me. It's an entirely different street.

Mayor Williams asked Steve if in the past any inquiries have been made by any real estate agencies or agents about our ordinances or zoning about what's being sold here in the City?

Steve said throughout the years and there have been realtors that have stopped by and have made phone inquiries as to a certain property and what's allowed and what isn't but not as many as you would think based on how many properties and realtors. It's fairly far and few between. When we get those calls and visitors we do want them to be very clear on what they're asking from us because it's obviously important that we are talking about the same property and uses they have in mind.

Mayor Williams asked if the information is on our website?

Steve said yes, the City Zoning Map and Chapter 155 Land Use Ordinances are on there as well.

Councilor Miller said she came to you about 218 Riverview Drive. Did you tell her that she could have horses on that property? She said she never discussed any other property.

Steve said I can only tell you she did come to us and that was the right thing to do and she had a lot of papers. We talked about what she was trying to accomplish and it was very obvious she was looking for horse property. I asked her where she's been looking and who she's been talking to. The Burelsmith property came up and we knew that was grandfathered because of the study we did. We didn't go much further than that and Amie was not trying to do anything than try to take care of herself and make sure she's buying the right thing. Unfortunately it's not the property we talked about. The one she bought was never mentioned in our meeting of the Graham property on the other street. I would have sent Code Enforcement to take a look and it was a surprise to all of us that it was Ms. Anderson there.

Councilor Miller said she did testify that was the only property she asked about. She was told to bring documentation that it was horse property. What documents did she bring, the pictures and. . . ?

Steve said after all this it became clear that I sure would have liked anything that she had from a realtors listing. One of the things we find periodically are listings that show a zone or use and we are very interested in at least trying to gather up everything we can. That was after the fact. The listing I had said it was easy access for horse stalls.

Councilor Miller said she did bring proof that there were horses on the property and I knew Mr. Joe Smith too. I sold him some solar panels in 1985 and at that time he didn't have horses on that property. Does this non-conforming or conforming use now or whatever also could be grandfathered in because of the fact there were horses at one time?

Steve said I will briefly go back over this for you. All we stated was in the event of a lawful non-conforming use changing and having a gap of over ninety days then they would have to come into conformance with the overlaying zones. Those took effect in 2001 so if you had horses on your property from 1990 and all of a sudden the City rezoned your property in 2001 and now you're an R-1 you still get to keep the horses there because a continuing lawful non-conforming use. The old ordinance used to state that if you had a gap of ninety days that by all rights you would have to quit bringing horses and using that property. The issue there was that we thought it was too restrictive. The ninety days didn't account for seasonal use. We changed the language to have a gap of over two years. You could ask for a conditional use. You could come back and say you know what, it's been three years since

I've had horses but I believe I qualify for you to consider the resumption of a non-conforming use because we used to have them here and you adopted ordinances and then we had to get rid of them because of financial or health issues or we moved and now we're back and want to bring them back. This allows for that and they can ask for that because number one they can prove that it used to be there and that buildings, corrals, or whatever the non-conforming use was and had some infrastructure there and the surrounding owners would be notified and would not be bothered at great length by bringing this use back. So, under the conditional use section that now allows it will take specific attention to how the property owners feel and get their input on it. If it is a demonstrable and verifiable non-conforming use that previously existed along with the ending date of that use. The applicant must also provide a detailed site plan to show existing structures going on the area of the property that will be used for the continuation of the previous non-conforming use. Where horses would be important is if you have small acreage and you built it up with a house, garage, out buildings. The usable land for a horse can almost be too small in some cases and it's not fair to the animals when they have less than an acre per horse. Let's give you the same for a gas station in an R-1. There used to be Joe's Gas Station on the corner. The family owned it for years and they want to bring it back. The building is still there and it's not going to hurt the neighborhood and everybody says it's a great idea. That allows for someone to ask for it. That's where we are at with this. They meet those conditions and they did go to Planning & Zoning and I think the feeling was that they had not demonstrated sufficiently those requirements and so they denied the request.

Councilor Miller said it just occurred to me that this ordinance does not allow for new owners. If it sat there and wasn't sold for so many years it doesn't allow anything for new owners.

Steve said we talked about that during the Public Hearings of adopting this and I think it was decided not to restrict it to previous owners only. In other words if they sold the property they would be able to continue it. The reason we did that is we are allowing a little more flexibility in a town that is traditionally historically been used for a lot of different things including horses and for someone to come forward and through no fault of their own buy a perfectly good property that will allow for horses and would be good for that use give them an outlet to come and prove or come and ask for that and be able to demonstrate it. It doesn't mean it's an automatic.

Councilor Miller said there was definitely prior use and I don't know if that would go back to Ruidoso Downs paperwork saying they could have one horse per lot. That kind of shows historical use because this is back from 1971 I think is what I read.

Councilor Perry said it was Joe Smith and then he sold it to the Grahams. They had it for over ten years and I don't remember them having horses.

Councilor Ritter said like most everyone in this room they know Joe Smith was a character but he did not live on that property for a number of years. He lived at his wife's property

north of Angus going toward Capitan and in the 1990's that property sat vacant and he lived out there even after his wife's passing so I know it's been more than a decade.

Councilor Miller said I feel for the new owners. I think she bought that in good faith saying that she could have horses. She saw the barn there. She saw where there had been horses there and I think this is a real hardship case for the new owner. Especially if she came in and was told she could have horses there. Maybe you thought it was a different property she was talking about. That's very confusing to me. She said she was talking about this property at 218 Riverview Drive.

Steve said my recollection in my statement was that we were talking about the Burelsmith property which is on Park.

Councilor Miller asked did she state she was going to buy that property?

Steve said all I know is she was looking for properties for horses to buy and we were trying to be very much on the same page and be helpful and she was doing the right thing it's just that's not a property we isolated and talked about. She did have papers and did come in and we're not denying that.

Councilor Miller asked if she had this paper from the realtor?

Steve said she had a lot of papers and I was able to get that. Once again Burelsmith came up and I did make copies of everything she had. We talked about grandfathering on the Burelsmith property. Really, that was something that was not too unusual. The last properties that we know of, where they are, what they are zoned. Burelsmith is what I told her was grandfathered.

H. John Underwood, City Attorney said for the Council's benefit I first want to let you know that restrictive covenants do not trump ordinances otherwise municipalities would have no control over its properties. The second thing is that the testimony and the evidence that I understand is they are saying the Grahams purchased that property in 2004 and that property has not horse use since at least Mayor 2004. The ordinance that this Council enacted in 2014 provides for situations for conditional use which you pay two hundred dollars or a hundred dollars for and go through the commission process to meet the requirements of the ordinance that was enacted for this. With the Planning & Zoning statement effecting property owners was that this property was not used as horse property for at least eleven years with no horses there whatsoever.

Councilor Miller said I'm reading Hoyt and Kim Graham's letter and this was the same complaint a lot of them on Wood Lane had that they never received any notification as property owners that horses were not permitted on the property anymore. They sold it in good faith understanding there were horses permitted.

Alexandra Bobbit, City Attorney said the ones that claimed they did not receive notice were land owners who didn't live here. This wasn't their primary home. It was shown at the Planning & Zoning Commission that notice was provided at that time. They do not do certified mail and if mail is not picked up it will be returned to sender so if they weren't here they wouldn't have received the certified mail either and it would have been returned. It needs to be clarified that everyone was sent letters.

Councilor Miller said that wouldn't apply in this case because these people have never lived here. The Graham's have been here a long time. It wouldn't apply to this case.

Alexandra said it is zoned M-1.

Mayor Williams entertained a motion to approve – Appellant: Resume a non-conforming use (Horses) on M-1 Residentially Zoned Property located at 122 Riverview, Ruidoso Downs, New Mexico.

Councilor Ritter moved to approve – Appellant: Resume a non-conforming use (Horses) on M-1 Residentially Zoned Property located at 122 Riverview and previously known as 218 Riverview, Ruidoso Downs, New Mexico. Seconded by Councilor Morales.

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

Mayor Williams called for a five minute break at 6:27 p.m.

Mayor Williams called the regular meeting back to order at 6:35 p.m.

Mayor Williams stated the next item on the agenda was – Discussion and Possible Action – Memorandum of Understanding Between Lincoln County Weed Management and Numerous Agencies.

Mayor Williams said this is a cooperative agreement with the above agencies listed in a voluntary noxious plant control. We will have a representative from our community to meet with all these agencies to outline a plan that they have to fight noxious weeds in our community and throughout Lincoln County. I'm sure we have some in our area and it's been mentioned before that we do.

Councilor Morales said we have thistle right at the corner of West and Highway 70.

Mayor Williams entertained a motion to approve – Memorandum of Understanding Between Lincoln County Weed Management and Numerous Agencies.

Councilor Morales moved to approve – Memorandum of Understanding Between Lincoln County Weed Management and Numerous Agencies. Seconded by Councilor Ritter.

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

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. 2015-02 An Ordinance Amending Title VI: Land Usage Chapter 152. Manufactured Housing Regulations §152.02 restrictions and §152.02 restrictions and §152.99 Penalty: amending title VI: Land Usage Chapter 155. Zoning §155.026 Site Plan and Concept Approval B (1) C (5) and Appendix A 10.A. Site Location Review Fee.

Steve Dunigan, Planning & Zoning Director said what I'd like to ask for is your consideration to schedule some Public Hearings for some language amendments to several of the sections of our ordinance. There is one chapter that we could start out with and that is Chapter 152 Manufactured Housing. After some consideration and actually Planning & Zoning hearings and approvals and some language changes I'd like to ask your permission to look at these pages. What we are trying to do is take a perfectly good ordinance that we had done some changes to some years back and put back a little more control. It used to have a ten year age limit. We all determined that was pretty restrictive and probably not enforceable. What we decided to do was add the language in "C" and that is to at least set some kind of a case that you wouldn't be able to bring a home into it any older than that. When you look we are recommending the June 1976 when they enacted the HUD Code II where they started inspecting them. That's a very old date but at least it's not an open date. The other thing we're adding to that is in the last sentence where it says 'All manufactured or mobile homes must be in habitable condition prior to placement within the City of Ruidoso Downs.' We don't have a lot of problem with home that come in that have to be rebuilt but it does happen where some are delivered and it takes forever to be fixed or perhaps they are never really brought up to the codes they should be. In our applications process we already ask them what condition and do a pre-delivery inspection and if not local then with pictures. The language I'm adding gives us the ability to say 'as much as we'd like to help you that 1972 home that has no windows or doors probably can't come into our town based on our ordinance.' We are trying to look at property values and some situations and areas that are deteriorating. We also have language in there that says it must be set up within a reasonable period of time not to exceed thirty days. I'm adding Item K which is pursuant to the requirements that manufactured homes must be installed according to manufactures installation recommendations. Pretty standard but we need this in our ordinance. Then finally in the penalty phase we felt the language should include taking out 'shall be deemed guilty of a misdemeanor upon conviction thereof shall be fined the amount not to exceed three hundred or be imprisoned in the county jail for a period not to exceed ninety days.' We feel the penalty would be enough and not the jail time.

Councilor Miller said on the manufactured or mobile home prior to June 1976, if I remember right asbestos was outlawed in 1978.

Steve said HUD started inspecting the manufacturing and construction in 1976 and we felt it was a starting point that was measurable.

Steve said the next language we had was related to a recent change we had with the Building Inspection position being eliminated. The work that goes on in our office related to site plan review, flood plain review, setbacks, easements, drainage and all of those continue through our ordinance. We are still responsible that all new development in our City is controlled even though we are currently working with the State we do have to sign off on the applications and so what we're recommending is something Tularosa uses and it's a twenty-five dollar site location fee that we would like to impose. It will help with payroll, gas, materials, time and I think it's a good idea.

Mayor Williams entertained a motion to - Direct City Clerk to Schedule Public Hearing for consideration of Adoption of Ordinance No. 2015-02 An Ordinance Amending Title VI: Land Usage Chapter 152. Manufactured Housing Regulations §152.02 restrictions and §152.02 restrictions and §152.99 Penalty: amending title VI: Land Usage Chapter 155. Zoning §155.026 Site Plan and Concept Approval B (1) C (5) and Appendix A 10.A. Site Location Review Fee.

Councilor Morales moved to - Direct City Clerk to Schedule Public Hearing for consideration of Adoption of Ordinance No. 2015-02 An Ordinance Amending Title VI: Land Usage Chapter 152. Manufactured Housing Regulations §152.02 restrictions and §152.02 restrictions and §152.99 Penalty: amending title VI: Land Usage Chapter 155. Zoning §155.026 Site Plan and Concept Approval B (1) C (5) and Appendix A 10.A. Site Location Review Fee. Seconded by Councilor Ritter.

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

Mayor Williams stated the next item on the agenda was - Discussion and Possible Action - Approving Agenda Briefing Memorandum - Bonnie Ambrose - Previous Fiscal Year 2014-2015 Public Works Department - Glorietta Geoscience Invoice #0006500 in the amount of \$111.55.

Dale Graham, Project Manager said we received an invoice from Glorietta Geoscience to take care of our water rights and deal with the State Engineers Office. We had put in an application with the State Engineers Office to try to make the water rights that we have at the Spring supplemental to our wells that we have so if the Spring starts slowing down we could pump our wells more and it was denied by the State Engineers Office. So, we wrote and appealed or asked for a hearing to appeal and Glorietta Geoscience helped us with that appeal which was in the fiscal year 2014. They did the work last year but didn't send us the bill until this year. We just received the bill.

Mary Castaneda, Finance Director said this is an invoice that didn't have a requisition attached to it so there was no knowledge to encumber it. Since there wasn't we are asking permission to pay it in this fiscal year for last fiscal year.

Mayor Williams entertained a motion to approve - Agenda Briefing Memorandum - Bonnie Ambrose - Previous Fiscal Year 2014-2015 Public Works Department - Glorietta Geoscience Invoice #0006500 in the amount of \$111.55.

Councilor Ritter moved to approve - Agenda Briefing Memorandum - Bonnie Ambrose - Previous Fiscal Year 2014-2015 Public Works Department - Glorietta Geoscience Invoice #0006500 in the amount of \$111.55. Seconded by Councilor Miller.

Roll call votes: Councilor Ritter, Aye; Councilor Perry, Aye; Councilor Morales, Aye; Councilor Miller, 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. Lincoln County Transit had a beginning cash balance of \$38,973.48. Revenues of \$1,518.65. Expenditures of \$9,666.00. Leaving them a tentative ending cash balance of \$31,225.81. The museum had a beginning cash balance of \$15,115.49. Revenues of \$14,107.16. Expenditures of \$24,001.99. Leaving them a tentative ending cash balance of \$5,220.66.

PUBLIC INPUT

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

Pam Williams said I wanted to bring it to everyone's attention that I don't know if you knew that Charlotte Lord passed. It's at the end of Highlands Lane and Border Road goes through her property and down to the river. It was absorbed at the time that her husband passed and the daughters just gave her the property and there is no linkage in the thing. I checked this out for years and it stops right there. The wall is against the Jones and it never came before Council to get rid of that road and now instead of letting it go nature's way that it's always gone down there and now we had to go behind the property and make the water go uphill and that doesn't happen. It's supposed to go around her property and on to the river. I just felt like now is the time before anything changes to make the correction because it was never done legally. I think now is the time to take it back and make that natural flow and do something.

Wayne Williams said I'd like to thank the City for the job they did on the gravel road behind our house. They maintain that road pretty well. I just want you to know I appreciate it. By the way both sides of that road could be sprayed with weed kill. I keep our thistles down.

CLOSED SESSION

Limited Personnel Matters Pursuant to Section 10-15-1 H2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration 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 - Limited Personnel Matters Pursuant to Section 10-15-1 H2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration 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.

Councilor Ritter moved to go into Closed Session for Limited Personnel Matters Pursuant to Section 10-15-1 H2, NMSA 1978 for the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration 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. Seconded by Councilor Perry.

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

Mayor Williams closed the regular meeting at 6:56 p.m. and invited H. John Underwood, City Attorney, Alexandra Bobbit, City Attorney, Carol Virden, City Clerk/Treasurer, Christopher Rupp, Police Chief, and Steve Dunigan, Planning & Zoning Director.

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

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

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

Mayor Williams call the regular meeting back to order at 7:15 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, H2, 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.

Councilor Morales attested to the fact that the only items discussed in Closed Session were Limited Personnel Matters Pursuant to Section 10-15-1, H2, 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 that no action was taken.

Councilor Morales said because of the fact that the individual involved is my next door neighbor and I believe I have a conflict of interest I will abstain from voting.

Mayor Williams said I need a motion and second from Council.

Councilor Perry moved to uphold the Hearing Officers recommendation to terminate. Seconded by Councilor Ritter.

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

ADJOURNMENT

There being no further business to attend to Councilor Morales moved to adjourn at 7:17 p.m. Seconded by Councilor Ritter.



ATTEST:

A handwritten signature in black ink, appearing to read "Carol Virden".

Carol Virden, City Clerk/Treasurer

A handwritten signature in black ink, appearing to read "Gary L. Williams".

Gary L. Williams, Mayor