

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
WORK SESSION  
PERSONNEL POLICY MANUAL  
AUGUST 3, 2015  
4:30 P.M.

The Council of the City of Ruidoso Downs met in a Work Session on August 3, 2015. Mayor Williams called the meeting to order at 4:30 p.m. and asked Dale Graham 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, City Clerk/Treasurer informed Mayor Williams there was a quorum.

Also present:

Alexandra Bobbit, City Attorney  
Dale Graham, Project Manager  
Donna Miller, Payroll/Personnel Clerk

Mayor Williams asked Dale Graham to speak.

Dale said this morning Cleatus wife passed away this weekend and also this morning I will be taking over his position.

Councilor Morales said effective immediately.

APPROVAL OF AGENDA

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

Mayor Williams entertained a motion for Approval of Agenda.

Councilor Miller moved to approve the agenda. Seconded by Councilor 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 on City of Ruidoso Downs Personnel Policy Manual Updates.

Mayor Williams said Donna Miller and legal under John Underwood, LLC Alexandra Bobbit will be our presenters today. Also Council, at any time you may inquire and ask questions.

Donna said we will start on page 4. This was changed from the last time we talked and came from things that were suggested.

Councilor Miller asked if all this stuff that's crossed out in Chapter 2 and signed and everything and the resolution and all this that's crossed out, who does that? Why is it all crossed out?

Alexandra said that is the Chapter that refers the Mayor's Delegated Official you voted and passed in resolution that deleted that Chapter.

Councilor Miller said it totally deleted this Chapter saying that we'll follow the laws of the State of New Mexico and all this?

Alexandra said yes. That is why it is signed. That was passed by Council.

Councilor Morales said we approved it on the 23<sup>rd</sup> of February.

Councilor Miller said we approved all of this?

Councilor Morales said yes.

Councilor Miller said I didn't know we approved anything on the Personnel Policy yet.

Carol Virden said I think you participated by phone call.

Councilor Morales said it was signed by the three of us except for you Judy.

Councilor Miller said so none of that is any good?

Alexandra said it's already been taken care of by Council.

Donna said in Rule 203 under Chapter 2 Authority for Administration it is the Mayor instead of Personnel/Payroll Office.

Donna said the next change is on page 5 item B. It says Members of City boards and committees appointed by the Mayor and City Council.

Donna said on page 6 Employee Categories Rule 300 B) Mayor's Delegated Official has been removed. Item F) All other positions as designated by the Mayor's Delegated Official as having management responsibilities is removed.

Donna said on page 7 Types of Positions Rule 301 B) was changed to read The Personnel/Payroll Office shall notify the Department Head when any part time employee has reached 1,450 hours in any City fiscal year. After that sentence it was changed to read The Department Head shall notify the supervisor, that the employee in question is about to exceed his/her annual 1,664 hour limit' On page 8 at the top the Mayor's Delegated Official was changed to Personnel/Payroll Office but after discussion we changed it to Mayor.

Councilor Miller said does that mean he can totally do away with the probation period for that employee if they move to another position? He can waive it?

Donna said yes. It used to be the Mayor's Delegated Official.

Councilor Miller said there are things that could come up. I also think that should be by Council and Mayor.

Mayor Williams said Council doesn't need to be involved with that.

Councilor Miller said and why?

Mayor Williams said there's no requirement for it. All it does is it has to do with the probation period for employees unless the employee is being promoted or the position is being reduced. That is not a decision for the Council.

Councilor Miller asked if this was for an employee that's been part-time and going to permanent? Is that what it is or a new position?

Councilor Morales said it says if the employee takes a permanent position.

Councilor Ritter said it would be the option for them to say you're going into another position. It would be on what is the history of the employee.

Councilor Miller said I took it that it was a new position. It's the same position. Okay.

Donna said on the same page under Rule 304 Study of Individual Positions we took out 'Department' and it was changed to The Personnel/Payroll Office.

Donna said in Rule 305 New Positions we changed Mayor's Delegated Official or his/her designee to Personnel/Payroll Office shall investigate the actual or proposed duties and the Personnel/Payroll Office. We added 'and Finance Director' shall establish a position title and pay for the position which shall be presented to the Governing Body for approval.

Councilor Miller said shouldn't the Department Head do a little bit with this position title and what they need?

Councilor Morales said it says on here whenever a new position is established the Department Head shall submit a written job description detailing the duties of the position. Then the Payroll/Personnel Office shall investigate the actual or proposed duties and the Personnel/Payroll Office and Finance Director shall establish a position title and pay. So, it actually starts out with the Department Head and then would be presented to the Governing Body.

Councilor Morales asked Donna when you are investigating the actual proposed duties you would meet with the Department Head anyway right?

Donna said yes.

Donna said on page 9 Rule 306 Change in Job Duties Mayor's Delegated Official was removed and replaced with Personnel/Payroll Office.

Donna said in Rule 307 Improper title or Mayor's Delegated Official or his/her designee, was changed to Personnel/Payroll Office who shall investigate and review such requests. Then we changed it to read Recommendations, if any, for re-titling or pay adjustment shall be made by the and we removed Payroll/Personnel Department and submitted to the Mayor's Delegated Official to Payroll/Personnel Office and added and presented to the Governing Body for final approval and took out for approval.

Donna said on page 10 Rule 400 Vacancies it says Whenever a vacancy is to be filled, the Department Head shall submit to the and we removed Personnel Department and replaced it with Personnel/Payroll Office and then 'a personnel requisition form containing all pertinent information concerning the vacancy. Requisitions must be approved in writing by the and we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office prior to posting vacancy notices.

Councilor Ritter said what if the Department Head feels it is a necessary position but the Personnel/Payroll Office doesn't? It seems to me the Personnel/Payroll Office can basically veto the Department Head in this situation. I think someone else needs to look at

it other than just Personnel/Payroll because if there is ever a personality conflict, if there is ever a situation where the one person or whatever the Personnel/Payroll position is shouldn't have that much authority to say no, you don't need that person.

Donna said right now the Mayor approves it after I've signed it.

Alexandra said that's fine. All requisitions must be approved in writing by the Personnel/Payroll Office and Mayor prior to posting vacancy notices.

Councilor Miller said I like that better too.

Mayor Williams said the Mayor stays neutral and unbiased.

Councilor Ritter said if you only have one person that says yes or no you have a vacancy and too much control.

Donna said in Rule 401 is Posting of Vacancies we removed Mayor's Delegated Official or his/her designee and replaced it with Personnel/Payroll Office.

Councilor Ritter asked if the City bulletin board is for the in-house postings?

Donna said yes and it's over by the breakroom.

Donna said in Rule 402 Recruitment we removed Personnel Department and replaced it with Personnel/Payroll Office.

Donna said in Rule 403 Employment Applications on page 11 at the top we also just changed Personnel Office to Personnel/Payroll Office.

Donna said in Rule 405 References we removed Mayor's Delegated Official or his/her designee and replaced it with Personnel/Payroll Office.

Councilor Ritter said shouldn't it have something to do with the Department Head? Wouldn't the Department Head want more or less follow up on what's there?

Donna said I do make the calls. Dispatch and Police are very extensive.

Alexandra said my concern is that I think we need something uniform.

Councilor Miller said isn't it standard as to how much references are checked? So why would Personnel/Payroll Office be in charge of the extent is what I don't get. Could you stop and say no, we're not going any further on this background check and not do the standard?

Donna said well I guess I could.

Councilor Miller said I don't like that wording and that you could determine the extent. Something is wrong there. Nobody should determine the extent.

Alexandra said the standard has to be determined by somebody and that's in her job description to determine that extent.

Councilor Miller said the way this is worded you could stop or go on further.

Councilor Ritter said it goes back to what I was saying. The Personnel/Payroll Office knows Bob and knows Bob is a good person so they don't do a background check on him. This reads like that is possible.

Dale Graham said I see what you mean and so a \$100 background check wouldn't be done.

Councilor Morales said so maybe we need to change the extent which goes along with what Dale said. If you have a seasonal worker you're not going to spend a bunch of money doing a background check on somebody that's going to be here three months. But, if you have someone you're going to hire for the Police Department then yes you are going to do a lot more. So maybe we need to change the wording to 'shall determine the extent to which the employment and personal references and other information provided by the applicant shall be checked. What we change it to I don't have a clue.

Councilor Ritter said shall determine the extent' is already in our current policy.

Mayor Williams said according to what kind of job it is would determine how far you would go. You can't be too general. You have to be somewhat specific. A seasonal worker you don't have to go to this level but if it's a police officer or even a Public Works Director goes to this extent. There are levels.

Councilor Ritter said you may have a seasonal position that has nothing to do with people or a seasonal position that involves children so you're going to want to do more of a background check on that person. I don't like the word extent but I don't have a better answer.

Councilor Miller said each job description might have a different background check. But, no matter what they are all employees and we are responsible for our employees. I just didn't like the word extent either. It means you can stop that check even for a police officer.

Alexandra said there are State standards for police officers.

Dale said no matter where you work here you deal with the public.

Mayor Williams said on that Alex we'll move on but if you would please look at the language.

Donna said on page 12 Rule 408 Applicant File we removed Personnel Department and replaced it with Personnel/Payroll Office.

Donna said in Rule 409 Evaluation of Candidates we removed Personnel Department and replaced it with Personnel/Payroll Office in the first two sentences. Then it says The interview schedule will then be forwarded to the and here we removed Mayor's Delegated Official for his/her and replaced it with 'interview committee. In the next sentence we changed it to read An interview committee minimally and changed consisting to consist(s) and then of the' and then we removed Mayor's Delegated Official, at his/her option, Payroll/Personnel Department and changed that part to Personnel/Payroll Office. In the bottom of the paragraph we removed Mayor's Delegated Official or his/her designee and replaced it with Personnel/Payroll Office to go on to read 'by the interview committee. In the last sentence we changed it to read Department Heads and/or the Personnel and here we added Payroll Office and took out the word Department.

Councilor Miller said on that last sentence is that both of you or one of you or what?

Donna said I've always done all of the reference checks.

Dale said sometimes I would like to make the calls to ask about skill level and references.

Councilor Miller said then put the word and in there not and/or.

Councilor Morales said no, leave it as and/or because it can be the Department Head or the Personnel/Payroll Office or Department Head and Personnel/Payroll Office.

Dale said I would like to find out if he's a trouble-maker or a good guy and do we want him here or not before the interview.

Donna said in Rule 410 Background Investigation in the last sentence we removed Mayor's Delegated Official, or his/her designee and replaced it with and/or Personnel/Payroll Office.

Donna said in Rule 411 Selection in the first sentence we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office. In the second sentence we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office and at the end of the paragraph we changed Governing Body' to City Council.

Donna said in Rule 415 Interim Appointment we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office' we added to the next sentence to continue with approval from the Mayor.

Councilor Miller said wouldn't the Council be included on that also?

Alexandra said not on an Interim Appointment because typically they fill that pretty quickly. I think one of the things this needs to be watched out for is the executive is typically the one that oversees the personnel policy, the majority of it. With the legislative typically handling the budget of that and thus balancing the powers of that. There are certain things where the Mayor is the one that should be overseeing that and having the separation of powers.

Councilor Miller yes I agree but I also think that interim position could go on for years. Say a new Mayor doesn't come on for two or three years and the Mayor that appoints that person to that position that could go on for years. In a government like we have which is a democracy I feel like the Governing Body should be included on positions whether they are interim or not.

Alexandra said on an interim appointment they never end up as a regular appointment.

Mayor Williams said let me make an example like today with Dale as Interim Public Works Director with the day to day operations. Do we want to go to you to approve that interim position?

Councilor Ritter and how many weeks does that take?

Dale said it would be two more weeks and would leave it with nobody in charge.

Alexandra said in Dale's case that doesn't mean you're automatically going to make him Director. He's going to have to then go through an actual regular appointment which is your last sentence.

Mayor Williams said that would then go to Council so the process stays the way it is and Council makes the final determination and approval. The Mayor gets the position filled if it's an emergency like we did today. So, again when we get a Director it's the Council's approval.

Councilor Miller said I understand it's an emergency type thing but I just remember I think it was in Ruidoso where they had an interim Fire Chief for years and years. That was my concern.

Donna said in Probationary Period Rule 417 A) in the last sentence we removed Mayor's Delegated Official and Personnel/Payroll Office and replaced it with Department Head.

Councilor Ritter said what did we do on the other one?

Donna said the other one said 'the Mayor.'

Councilor Ritter said the other one said Personnel/Payroll Office and Mayor.

Mayor Williams said like if Donna made the recommendation because he is the only one qualified then it would be passed on to the Mayor.

Alexandra said also to clarify 301 was under E which is Term Positions. It wasn't under a full-time position or part-time or temporary or as needed. Term positions are funded by a grant basically for the term of the grant. What was approved in 301 is different than what is being referenced in 417. This one is for a Classified Employee.

Councilor Miller said so it's the Department Head's decision?

Councilor Ritter said should we put any language in there if they're changing departments as to which Department Head will make that decision?

Alexandra said if they are changing departments the only Department Head that can make that decision would be whoever is overseeing that employee. The other Department Head doesn't have any say over that employee who is no longer working in that department.

Donna said in Rule 417 B) we changed 'Chief of Police' to 'Police Chief.'

Alexandra said let's go back to A) and if you want it can say 'unless the requirement is waved by the employee's new Department Head.'

Councilor Miller said does that mean it ends his probation and he doesn't have to do his twelve months like everybody else does?

Councilor Ritter said he's already done it.

Mayor Williams asked Donna to clarify a classified employee.

Donna said they are paid hourly and are non-exempt.

Alexandra said for instance the Bailiff. When the Bailiff was at the court the Bailiff had previously gone through a probationary period in Dispatch. It would be their option if the Bailiff had to go through another probationary period.

Councilor Miller said the way this is stated it didn't say if they completed their twelve month probation.

Alexandra basically what this allows if you like is to get rid of it and all of your employees could have the option of two year probation or three year probation depending on how often they would go to departments. This allows them to be able to go to a new department and not have to go through a probationary period again.

Councilor Miller said I like that it says it could be waived by the Department Head because he knows his workers.

Councilor Morales said maybe we should add unless the requirement is waived by the new Department Head' for clarification. Is that acceptable?

Donna said in Rule 420 it says A probationary employee who is recommended for dismissal may be considered for demotion to an open position in a lower pay range with the approval of the' and here we removed Mayor's Delegated Official and Personnel/Payroll Office and replaced it with Governing Body.

Mayor Williams said then you would be able to let that employee go through his probationary period after eleven and a half months and have a discussion with the employee and say you're not fulfilling your job and then paying them the annual leave.

Alexandra said okay so on 418 we could do Annual Leave benefits will accumulate during the probationary period' then take out but and put in 'and' then 'employee will and take out the word not and then be eligible to take annual leave once time has accrued. She said all of these changes and in 405 will be presented at a Council meeting. What I said and what I have written that will be in the final form so if that's what is voted on and approved aside from 405 right now as it stands then all those changes will be voted on to put those changes in.

Donna said in Rule 422 it says Extension of the employee's probationary period may occur at the discretion of the' and here we remove Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Councilor Ritter said I don't like the words at your discretion.

Alexandra said do you want approval?

Councilor Ritter said all I'm saying is the Department Head has already recommended it and we're still going back to the Personnel/Payroll Office saying yes or no. What if the Personnel/Payroll Office and the Department Head disagree?

Alexandra said in accordance with 422 if the Personnel/Payroll Office doesn't agree with the Department Head then the Personnel/Payroll Office would be the one that stands.

Councilor Miller said that's another thing to go to the Governing Body whether they are going to extend probation or if they're going to demote people. There's got to be a reason.

Alexandra said the only recommendation I can make is to handle it like a Pre-Determination Hearing. I don't think that is something I would recommend to the Governing Body because it's not a budgetary issue.

Alexandra said the Executive is the one that oversees the administrative aspect of it. The legislative is what agrees on the budget. For instance what you had recently with the demotion that's a lower pay range. That's what allows the legislative/Governing Body have a say in that. I caution you because the majority of the Personnel Policy needs to primarily be overseen by the Personnel/Payroll Office being overseen by the Mayor because that is what would qualify as Executive. In this situation it would be a decision of the legislative. For instance a Pre-Determination Hearing that is held as later stated should be overseen by the Mayor with the Department Head and would allow more people to be involved with that process. They would decide if it goes all the way to the Governing Body.

Councilor Ritter said what about 'extension of the employee's probationary period will occur upon the recommendation of the Department Head?' I'm wondering why does the Personnel/Payroll Office have the discretion if the Department Head has already said it has to be done?

Alexandra said because that way if there is a conflict between the employee and the Department Head that allows a third party to mediate the situation and whether or not the probationary period needs to be extended. They can be terminated at any point.

Councilor Ritter said I see the check and I see the balance but maybe we need to put a third like the Mayor or something for both sides.

Alexandra said we can do it two ways. One is where we can put the Personnel/Payroll Office and the Department Head agree that the probationary period needs to be extended then that's taken care of. Then we can add in should they not agree then the Mayor would

make the final determination. Or we can have it to where the extension of the employee's probationary period may occur at the discretion of the Personnel/Payroll Office upon the recommendation of the Department Head.

Councilor Ritter said I like the extension.

Alexandra said okay we'll do extension of the employee probationary period may occur at the discretion of the Personnel/Payroll Office upon the recommendation of the Department Head and with final approval by the Mayor.

Councilor Miller said we have put people on probation after their probationary period because of some wrong doing. Then when we put them on probation that was the Governing Body that did that before and that way if they sue it's not just two people they are going to sue it will be the whole Governing Body.

I don't know how that happened before when it was just the Mayor's Delegated Official.

Mayor Williams asked if that was a full-time employee?

Councilor Miller said it was and it was a recommendation from the staff or Mayor that we add probation time.

Donna said in 422 D) it says the Vacancy is approved in writing by the Mayor's Delegated Official and we removed that and replaced it with Mayor' and then it says and the Governing Body where we removed that and replaced it with City Council and then 'has approved funding for the position.

Mayor Williams said it's been said by some employees that they can work continuously through their mealtime. Is there anything here that would disrupt that here? I don't want to run into the situation where an employee is using that time on the premise of being paid for that time when it's not paid time.

Alexandra said in 507 Meal Time it says A City employee shall be entitled to time off to eat during each work shift. If the employee feels they need to work through lunch to get their work done then they can however the Department Head or Supervisor cannot demand that they not take a meal time.

Mayor Williams said I don't want the Department Head to say to them that they have to work that time.

Councilor Ritter said how do you know when the employee is required to remain at the job? Do we have something in place for that because going back to the Mayor's position if the employee thought they had to stay and the Department Head didn't tell them they had to stay so one is saying I had to work through my lunch and the employee is saying I had to work through my lunch and no, they could have taken lunch.

Dale said the only way I know is I would have to sign off on their overtime sheet. If we have something going on we sometimes don't have the time to sit down for thirty minutes to take lunch.

Councilor Ritter said what if they take lunch at the end of the day? Is that allowable?

Dale said we have done that like when the guys have gone out and worked on a water leak and never stopped all day long so when we're done it's like you guys go home. Overtime is a concern but the Department Head has to sign off on it.

Alexandra said the supervisor needs to be able to explain why they didn't take a lunch.

Donna said in 508 Telephone it says Every City employee shall provide the Department Head and' and here we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office and then with a phone number where he/she can be contacted outside of work.

Donna said in 512 Political Participation it says No City employee shall purport to represent the city at any political meeting, political activity, or in political publicity unless authorized in writing by the and here we removed Mayor's Delegated Official and replaced it with Mayor.

Donna said in 515 Solicitation and Distributions we removed Mayor's Delegated Official at the end of the paragraph and replaced it with Mayor.

Donna said in 516 Voluntary Contributions we removed Mayor's Delegated Official at the end of the paragraph and replaced it with Mayor.

Donna said one thing we added on 527 City Vehicle Usage from the last Council meeting is toward the bottom and says For the purposes of this policy, employees must either live within the corporate limits of the City of Ruidoso Downs or Ruidoso or within a and here we added fifteen (15) minute response distance forty (40) mile radius and then says from the City of Ruidoso Downs corporate limits to utilize a take-home vehicle, with the exception of Firefighters.

Dale said personally I think that is too far.

Councilor Miller said that's too far.

Councilor Ritter said that's an 80 mile round trip.

Dale said in that case then you might not use on-call in the Water Department because it would be an hour.

Alexandra said just to clarify it not 15 minutes it's 15 miles.

Councilor Perry said I think we passed that a couple years ago because some of our employees were living in Capitan and everywhere else and were taking vehicles home and we put a stop to that.

Dale said I don't want our guy's on-call and be that far away.

Councilor Miller said would they call that their work time driving?

Dale said their time starts when they get the phone call.

Donna said in 529 at the end of the paragraph we removed Mayor's Delegated Official and replaced it with Mayor.

Donna said in 530 it says 'If an employee is authorized by the and here were removed Mayor's Delegated Official and replaced it with Mayor and then says to use the employee's personal vehicle on official, out-of-town business, the employee shall be reimbursed at a rate per mile established by Resolution from time to time. Use shall be within the strict guidelines of use as prescribed by the and here we removed Mayor's Delegated Official and replaced it with Finance Director.

Councilor Morales said back where it says if an employee is authorized to use the employee's personal vehicle on official, out-of-town business, the employee shall be reimbursed at a rate per mile established by Resolution from time to time. Isn't that established by the Federal mileage? Right now the City is at fifty six cents per mile per the Federal guidelines.

Donna asked if you did a Resolution?

Carol said yes by the IRS.

Councilor Morales said it changes and so we adopt a Resolution to approve the Federal?

Mayor Williams said the resolution includes per diem. It safeguards the City.

Councilor Miller asked if that was always in there because I remember that I never used a City vehicle but if I rode in one we came here and got in it. We never took City vehicles home and nobody ever did. You should pick it up at the City and bring it back to the City.

Alexandra said it says employee's personal vehicle. We were talking about an employee using their personal vehicle and they were conducting business and trying to get per diem

for instance going to the bank. They can't go to the bank and then go home and count from the bank home as per diem. They don't get paid from the bank to home.

Councilor Miller said I just read that they have to use a City vehicle if they have business here in town unless authorized by the Mayor.

Dale said I take my personal vehicle for the Water Board meetings in Albuquerque because the meetings are always on a Friday and I don't want to drive a City vehicle all the way here. I get paid mileage.

Alexandra said it has to be authorized.

Councilor Ritter said the last sentence in 530 reads Use shall be within the strict guidelines of use as prescribe by the Finance Director.

Alexandra said the Finance Director is the one knowledgeable on what the State guidelines are.

Councilor Ritter said should the Council and/or Mayor be part of that guideline?

Alexandra said it has to follow State.

Dale said you are under the State Procurement Code and it's not under the Finance Director to say what you're going to get but she does have the mileage chart.

Carol said under the New Mexico State Statutes the Per Diem and Mileage Act the State specifically for per diem gives different rates and that is for your meals and lodging. The mileage refers to following the IRS guidelines and that's why it's in our Resolution. We amended it several years ago for the changes of the IRS.

Alexandra said there has to be someone with the knowledge of what is on that chart and in this case it's the Finance Director.

Mayor Williams said what is referenced here was never an issue with the Mayor's Delegated Official.

Councilor Morales said it would make more sense to just get rid of that last sentence.

Donna said in 535 Vehicle use Eligibility it says The regulations concerning the eligibility of employees of City vehicles shall be established by the and here we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Councilor Perry said I would like to put Personnel/Payroll Office or Mayor' because if you are gone and someone needed a vehicle and they didn't tell you then we need someone.

Alexandra said do you want and, or and/or?

Councilor Ritter said in 535.1 it says Motor vehicles records will be checked annually and it should say monthly' on all employees. In the last sentence it says Successful completion of an approved defensive driving course may and here it should be shall and then 'be required of all employees who operate City vehicles.

Donna said in 536 Work Safety we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Donna said in 538 Personnel Record and Record Changes we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Donna said in 540 at the end of the paragraph we added the word Payroll/ after Personnel Office.

Mayor Williams said before we continue take a ten minute break.

After the break Councilor Ritter said we have a conflict with the meeting tomorrow. There is also a Planning & Zoning meeting.

Mayor Williams said we won't get through it all tonight and the next part tonight is Chapter 6, 7, and 8 and a lot of it is just language changes. He said they would figure something out.

Donna said in Chapter 6 Rule 600 Payroll Periods we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Donna said in 600.1 we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Donna said in 601 Work Week at the end of the paragraph we removed Mayor's Delegated Official and replaced it with Department Head.

Donna said in 603 Exempt Positions we removed all of by the Mayor's Delegated Official.

Donna said in 604 Overtime Compensation Authorization it reads Overtime must be approved in advance by the Department Head and here we removed or his/her designee and then it says and reported on a weekly basis to the and here we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office. It goes on to read

Overtime is for the sole benefit of the City. Employees shall not perform overtime work unless such work is approved in advance. Department Heads' and here we removed 'or his/her designee and then 'shall only approve such overtime if the work is of an emergency nature affecting the safety of the public, immediate operation of City Functions, or other such non-schedulable work.'

Councilor Morales said in the first sentence is should be 'bi-weekly' instead of 'reported on a weekly basis.'

Donna said we have made three different scenarios on how overtime can be claimed and that is what causes a problem because some employees may say I really didn't work fort hours this week but I worked ten hours on a certain day and they want two hours overtime on that day. Overtime should be anything over forty hours.

Alexandra said let's go through it first and then we'll do questions.

Donna said the first is 605 and 605.1 Overtime and the first one is our current policy. It reads as follows:

#### 605 Overtime

~~Overtime is work in excess of 40 hours per 7 day workweek, unless otherwise established in a manner consistent with law (i.e. Police and Fire Officers), and shall be paid as follows:~~

- ~~(A) Daily overtime: All work performed in excess of eight (8) hours in any scheduled workday shall be paid as overtime. Daily overtime shall not apply to 24 hour shift workers. Employees who work four 10 hour workdays shall be paid overtime after 10 hours in a scheduled workday.~~
- ~~(B) Weekly overtime: All work performed in excess of 40 hours in any workweek shall be paid as overtime.~~
- ~~(C) Before or after regular hours: All work performed before or after any scheduled work shift shall be paid as overtime.~~

#### 605.1

~~For overtime calculation purposes, eight hour holidays count as time worked towards the calculation of overtime.~~

#### [605 Overtime

All employees are subject to the provisions of the Fair Labor Standards Act (FLSA), as amended. You can access the Act on the internet or request a copy from the Personnel/Payroll office. All timekeeping records for non-exempt employees are to reflect the actual hours worked. If an employee works overtime, the decision of whether to give the employee overtime pay or time off is at the discretion of the Department head and funds for overtime are budgeted in each particular department. The employee must complete a request for overtime and state if pay or compensatory time is requested. All overtime or compensatory time must be approved by the Department Head.

All non-exempt employees who are required to work more than the regularly scheduled work week, may be compensated at one and one-half (1 ½) time their regular hourly rate of pay. Overtime shall be paid as provided under the Fair Labor Standards Act.

- A. Overtime for:
  - 1. Full-time non-exempt employees (except police officers and fire) is time worked in excess of 40 hours in a seven day period.
  - 2. Non-exempt police officers is time worked in excess of 40 hours per seven-day work period.
  - 3. Non-exempt fire employees is time worked in excess of 106 hours per fourteen-day work period.
  - 4. Part-time employees is time worked in excess of 40 hours in a seven day period. A part time employee shall receive the regular hourly rate for all time worked up to 40 hours per seven-day work week.
  
- B. Absences including, but not limited to sick leave, vacation leave, holiday, standby, leave without pay, FMLA, military leave, jury duty, and voting time or other non-worked hours are not counted as time worked for the purposes of computing overtime pay or compensatory time off.
  
- C. Overtime worked shall be compensated either with pay computed at 1 ½ times the hourly rate of pay or with paid time off (Compensatory Time) at 1 ½ times the number of overtime hours worked. Overtime work shall be kept to a minimum and must be authorized by the Department Head, as authorized in the operating budget. The Mayor shall approve overtime during emergency circumstances, which call for immediate action or in special situations required by the nature of the operation. Those City positions that are determined to be non-exempt as defined by FLSA are entitled to compensation for overtime worked but only those departments and positions that have approved budgeted funds will pay overtime. If funds are not budgeted, the employee will accrue compensatory time for hours worked. It is the responsibility of the Department Head to ensure

that their employees do not work on an overtime basis unless funds are allocated and the Mayor approves the work and the Finance Director approves arrangements for payment.

D. Overtime is for the benefit of the City. The employee, whether requesting pay or time off, must obtain verbal or written approval for overtime compensation, prior to the time the work is performed. Any unauthorized overtime shall be subject to disciplinary action, except in cases of an emergency.

E. Compensatory Time Off

If not paid for overtime work, compensatory time off shall be given in conformance with the Fair Labor Standards Act. The law authorizes state and local governments to provide compensatory time (comp time) off in lieu of monetary overtime compensation, at a rate of not less than 1 ½ hours of compensatory time for each hour of overtime worked.

Compensatory time may be used at any time with the prior written approval of the supervisor or Department Head authorized to approve time off, but approval shall be subject to the work needs of the City.

Upon termination of employment, any unused balance of compensatory time owed shall be paid at a rate not less than the employee's final regular pay rate.

Department Head shall monitor overtime worked and compensatory time accrued and shall encourage the use of compensatory time to be used within three (3) months or as the opportunity arises, in order to minimize the City's overtime pay liability.]

Donna said this is actually from Ruidoso's policy.

Alexandra said holiday time and vacation time cannot be factored in with the overtime.

Councilor Ritter said I agree with the weekly overtime but what about the water leak and they work into the night?

Alexandra said it wasn't addressed in different situations in the old policy.

Councilor Morales said do we have any departments within the municipality that manipulate their hours on their timesheets? Yes or no.

Alexandra said the reason for us that it can't be a yes or no question is because while we have seen issues with timesheets they are signed by the Department Heads so without further investigating there is only so much we can get from those departments.

Dale said I think payroll needs to be looking at the reason there was overtime. It's the same thing with comp time.

Councilor Perry said I make the recommendation that we get rid of comp time.

Alexandra said I want to check the FLSA and if there is no provision for it then we will take it out.

Mayor Williams said it is addressed in C) also.

Councilor Morales said just take compensatory time out of anywhere we have it.

Donna said in 608 Call Back Pay we are removing the first paragraph and we have rewritten it as follows:

[Call Back Pay

Employees called back to work outside of their regularly scheduled shift hours to perform non-scheduled work shall be paid for a minimum of two hours regardless of the number of times that you are called back during your shift. This time includes reasonable travel time. This provision does not apply to assignments that immediately follow or are connected to the employee's regular scheduled work time. This doesn't apply if a Department Head or Supervisor changes an employee's work schedule due to weather, deadlines, or short staffing (i.e. scheduling people to work days off or changing time for snow removal.)

The first two hours of any call back hours, outside of the regularly scheduled shift hours, shall be paid at premium pay. The premium pay should be at 1 ½ times the employee's regular hourly wage for those call back hours, plus payment at the appropriate FLSA level for all additional hours worked.]

Donna said we removed all of 608.1 where it read 'time must be calculated beginning with the time the employees actually leaves to return to work following notification to return to work.'

Donna said in 611 Separation Pay we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office. In the last sentence we removed Payroll/Personnel Department and replaced it with Personnel/Payroll Office.

Donna said in Chapter 7 Rule 700 Career Ladders we removed Personnel Department and replaced it with Personnel/Payroll Office.

Donna said in Rule 701 Promotions at the end of the paragraph we removed Mayor's Delegated Official and Personnel/Payroll Office and replaced it with Governing Body.

Donna said in Rule 702 there were two places that had Payroll/Personnel Department and we removed those and replaced them with Personnel/Payroll Office.

Donna said in Rule 706 we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office.

Donna said in Chapter 8 Conduct Subject to Discipline Rule 801.1 we removed Mayor's Delegated Official and replaced it with Mayor.

Donna said in Rule 802.1 Informal Discipline we removed 'or supervisor's superior' in the first sentence.

Donna said in Rule 802.2 Formal Discipline E) it read Demotion (only if a budgeted, open position exists and it is in the best interest of the City, as determined by and here we removed Mayor's Delegated Official and Mayor and replaced it with Governing Body.

Donna said in 805 Notification of Disciplinary Action Rule 805.1 it reads Formal disciplinary action is commenced by a supervisor and we removed the word of and replaced it with or and then removed supervisor's superior and replaced it with Department Head and then 'of the employee when a Uniform Notice of Disciplinary Action form adopted by the City is completed and submitted to the' and here we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office. Then it continues with The and here we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office and then 'may approve, reject or modify the proposed disciplinary action. Here the Council members recommended that the previous sentence end with 'in accordance with the Personnel Policy Manual.' After review and approval, the and here we removed Mayor's Delegated Official and replaced it with Personnel/Payroll Office shall and we removed deliver and replaced it with present and then the Uniform Notice of Disciplinary Action to the and here we removed Personnel Department who shall present it to the' and then 'employee.

Donna said in Rule 805.3 we removed Personnel Department toward the end of the paragraph and replaced it with Personnel/Payroll Office.

Donna said in Rule 806 Absenteeism we added at the end of the paragraph If it is not requested and approved in advance, time off will be considered time off without pay.

Council recommended it should say approved 24 hours in advance.

Donna said in Rule 806.1 at the very end of the paragraph we removed, or in his/her absence, the Mayor's Delegated Official.

Donna said in Rule 808.4 A) reads An employee whose position requires a driver's license and whose license is suspended or revoked for 180 days or more shall: be suspended without pay for a maximum of 30 calendar days during which time the employee may return to his/her regular job at any time upon providing the' and here we removed Mayor's Delegated Official or his/her designee and replaced it with Personnel/Payroll Office and then with proof of a valid New Mexico driver's license of appropriate category.

Councilor Ritter said why aren't they just suspended until they get another license?

Donna said you might have an employee with a suspended license and he can ride with him.

Councilor Ritter said if they have to have a license and they have to drive a vehicle as part of their job then shouldn't they be suspended until the license is reinstated? If not, basically they're looking at a job change from a person that is not required to drive.

Dale said I don't understand why 808.4 basically says one thing and then 808.5 basically says the same thing but leaves out the 30 day suspension.

Councilor Ritter said it says for less than 180 days. I wonder if 808.4 and 808.5 shouldn't be rewritten with more emphasis on A) be immediately demoted. We might want to keep the 30 day suspension as an option but I think it's more important to get them demoted until they get their driver's license.

Alexandra said in 808.4 you want to add in the A) from 808.5.

Councilor Ritter said or rewrite 808.4 and 808.5 into one.

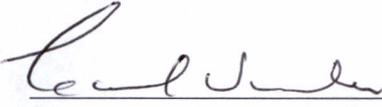
Alexandra said there are some Rules that I need to check on and I have the new language from your recommendations. Tomorrow I will have a recap for your review. The biggest section will be 1200. She said we can get through the rest tomorrow.

#### ADJOURNMENT

There being no further business to attend to Councilor Perry moved to adjourn at 7:49 p.m. Seconded by Councilor Ritter.

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



  
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Carol Virden, City Clerk/Treasurer