

City of Rio Communities Council Minutes  
Regular Business Meeting  
June 25, 2019

**Call to Order**

- Mayor Gwinn called to order the city council regular business meeting at 6:00 pm.

**Pledge of Allegiance**

- Mr. Darnell led the Pledge of Allegiance.

**Roll Call**

- Present: Mayor Mark Gwinn; Councilors Bill Brown, Peggy Gutjahr, Arturo Sais and Joshua Ramsell.  
Present: City Manager Leisa Haynes, Municipal Clerk Lisa Adair and Finance Clerk Angela Valadez.

**Approval of Agenda**

- Councilor Gutjahr moved to approve the agenda as amended and move items 13 and 16 to the July 9, 2019 meeting. The motion was seconded by Councilor Brown. With a 4-0 vote the City Council the agenda for the City Council regular business meeting was approved as amended.

**Approval of Workshop Minutes**

- Councilor Brown moved to approve the minutes of the May 14, 2019 workshop. The motion was seconded by Councilor Gutjahr. With a 4-0 vote the workshop minutes for the May 14, 2019 workshop was approved as written.

**Approval of City Council Minutes**

- Councilor Sais moved to approve the City Council minutes of May 14, 2019. The motion was seconded by Councilor Ramsell. With a 4-0 vote the minutes for the City Council Regular business meeting of May 14, 2019 was approved as written.

**Approval of Budget Hearing Minutes**

- Councilor Gutjahr moved to approve the May 15, 2019 Budget Hearing minutes. The motion was seconded by Councilor Brown. With a 4-0 vote the minutes for the City Council Budget Hearing of May 15, 2019 was approved as written.

**Public Hearing**

- Mayor Gwinn asked for a motion to go into the public hearing.
  - **Motion and roll call vote to recess Regular Business Meeting session and to go into Public Hearing:**
    - Councilor Gutjahr moved with roll call vote to recess the regular business meeting session to go into Public Hearing on Ordinance 2019, Chapter 11, Article 4, Solid Waste. The motion was seconded by Councilor Brown. Vote: Councilor Ramsell-yes; Councilor Sais-yes; Councilor Gutjahr-yes and Councilor Brown-yes. With a 4-0 vote Council recessed the regular business meeting session and went into public hearing at 6:11 pm
  - **Ordinance 2019-\_\_ Chapter 11; Article 4 Solid Waste**
    - Mr. Gary Nordell said he lives in the Chamesa sub-division; he then said he saw a news story in the Albuquerque Journal and what it talks about is a petition in Santa Fe. "Antonio De Vargas filed papers this week requesting a Grand Jury investigation into the North Central Solid Waste Authority. He is alleging fraudulent practices by a regional trash collection organization and accuses the authority of misappropriating public money billing customers for services not rendered." Mr. Nordell said he brings that up because the draft proposal doesn't prevent that so that might be looked into. He said he looked at the website and it was very difficult to find the draft proposal. He said it does not show on the Municipal Court home page and it should be a drop down like documents – proposals. He said the draft proposal is findable only by using a search box and after ten minutes he went to Google and in order to

get a copy of the proposed ordinances, you have to go to the calendar which makes no sense whatsoever and that should be fixed. He then said as to the draft proposal paragraph 11.4.1 is the only mention of recycling in the ordinance. If the franchisee offers partial recycling, the recycler is prohibited from taking glass and so forth anywhere else. According to this proposal if the franchisee offers any recycling then nobody is allowed to recycle the way this reads. He said 11.4.4 “any franchise shall provide for the termination of the franchise prior to the expiration of the term for cause.” He said he hasn’t figured out what that means – it makes no sense and is a problem. He read 11.4.5 (b) owners of real property responsible for payment of solid waste collection fees and liens. He said that makes this proposal a tax because there is no way that you cannot be liable for payment and I say it’s a tax. He said paragraph (e) language needs to go here for exceptions such as recyclers and piggy backers and optional discounts for seniors and vets. He said paragraph 11.4.7 failure to use city service reads if you go against the city service you have a problem by being billed for services not provide which is the news story. He said if there is no trash can on the driveway, no service has happened and it can’t be billed for and the proposal doesn’t take care of that.

- Ron Gentry said he lives on the southern border of Rio Communities and has quite a few rental properties. He said the solid waste ordinance is a no win and will never make everybody happy and never get to the end of it and the easiest thing to do is say it’s in an RFP and keep looking at them. He said he saw this tried three times in the County for over a year each and there are so many loopholes and questions that people have. He said he agrees that it’s hard to find this stuff on the computer unless you’re a computer geek. He said on the commercial part of it unless it’s wrong and he heard that it will be addressed in the RFP and that’s when you get down to the squealing when you get proposals from different vendors. He said he has seen many versions and two or three lawsuits over this in his history with the County. He said he is concerned about the portion in this that you are requiring the commercial user to build an enclosed facility to put the trash container in. He said he wonders how few of us there are that have businesses in Rio Communities at this time and that turns into an expensive proposition. He said traditionally they’re built out of block with steel doors and that could be on every piece of commercial property that will be used by anyone that comes in. He said he would suggest that you think about that cost to your business people that would be astronomical when each of them has to put this in. He also asked if there will be a lot of exemptions that you can apply for such as in his senior apartment complex. He said he has two trash containers, one at each end that the people can use. He then asked if he is going to be expected to build two block enclosures to put them in and if so it will be difficult and extremely costly. He said they will cost a minimum of a couple thousand dollars a piece to build and then where do we put them on the property. He said then if you have a piece of property that is commercial and has some kind facility or structures on it and you’re not using it, this vendor will also be able to collect from you and you’ll have to build a structure even if you don’t have a container and aren’t using the service. He said that is a cost to business people here that is sort of hidden. He said in Belen and other places in the county, you don’t have to build those structures and he asked that be considered and that the cost be looked at. He said some businesses won’t have space for a structure because they didn’t anticipate it before and there will be huge trucks that come in so there are only a few strategic locations you can put one on commercial property. He said businesses are the life blood of this community and the less that we can impact the cost of business and generate more gross receipts tax would be better. He asked that some of those things be looked at and when we get to the RFP area and look at commercial properties that are not being used and whether or not that can be charged because the vendors that he has seen bid on it, they want to charge everybody.

- Mayor Gwinn said the charges for both residential and commercial property don't start until the property is occupied. He said commercial property owners would be required to build the structure and start service when the property is occupied. He said a lot of businesses here have curbside roll-offs instead of the big dumpsters.
  - Mr. Gentry said it will be an imposition because you can't have a regular business without a large container.
  - Lola Mallhullin, Rio Communities; she said one thing that is not addressed is the fact that people who don't use any service – what is the plan for that? Why are you making it mandatory for me if I take care of it?
- Mayor Gwinn explained that we have homes in the community that store trash in their truck and we had to address that. He said we've been discussing this for two and a half or three years and have gone to several communities that have worked through the process. He also said when we get to the RFP process, depending on how we write it, they may want address that.
- Councilor Brown said when Planning and Zoning started to draft the initial ordinance, they surveyed each of the trash haulers that service Rio Communities and asked how many clients they have and found that one third of the people who live in this community do not have trash service. He said that is why we have accumulated a huge trash problem and the remedy for that is to make trash pick-up mandatory and that affects people that recycle and take their trash on a regular basis to other places. He said we also get a huge amount of littering on the mesa and other places in the city and we have a continuing problem even with having two 30 cubic yard containers here once a month that get filled regularly.
  - Ms. Mallhullin said she sees people going down Sundial Road to the place by Chamesa and they dump their trash there. She asked if she could show proof that she goes to a transfer station to keep from being penalized.
- Mayor Gwinn said it will depend on how they write the RFP. He said we're going to a private hauler and not creating a system for ourselves. He said we will be asking that the vendors listen to our residents and find out their needs.
  - Ms. Mallhullin said if she is a responsible homeowner and shows proof that she takes trash to a transfer station, then you shouldn't have a problem with that. She said if she only has one bag of trash it's not cost effective to have a service. She said she is on a limited income and her outlay is being increased.
- Councilor Gutjahr said that is another thing for the RFP. She said several people have brought up concerns such as elderly people, veterans, people on limited income and the case where several people use one trash receptacle and share the cost. She said the ordinance says we're going to have a trash service and it will be mandated but the concerns people have will go into the RFP and vendors come back to us with how they've met the concerns, which is how they're chosen. She said Council's issue is that we need to clean up the City and we need to make it so that people have to do something about trash.
  - Ms. Mallhullin asked if a stipulation can be made that if someone takes it to a transfer station and gets a receipt, that can be acknowledged.
- Mayor Gwinn said that would be between the resident and the hauler.
- Councilor Brown said he sympathizes with Ms. Mallhullin but said he is a single person household and generates a bag of trash a week but pays the same rate as everyone else. He said he is on a fixed income also but considers it his obligation as a resident that his trash be properly disposed of.
- Councilor Sais said we would have to take exemptions into consideration but the vast majority will have to be in a mandatory status. He said we're trying to set up a mandatory system so that we can clean up the City and we're listening to individuals and documenting exemptions that we can discuss.
  - Ms. Mallhullin asked if we can have another survey because she did not receive the survey.
- Mayor Gwinn said we won't do another survey and we're moving forward.

- Harlon Wolf, Hillman; said he hopes that it will not be voted upon until we write it or read it. He said he is hearing a lot of open ends and you say you've been doing this for three years. He said making a business put up a permanent structure that a garbage man can get to, the cost might take up parking spaces and hurt their business. He said you guys are going to be heading into a storm of law suits - think about what you're legal costs are going to be. He said you're punishing people like they're criminals – go get the criminals and leave the people alone.
- **Motion and roll call to go back into Regular Business Meeting session**
  - Councilor Gutjahr moved with roll call vote to go back into regular business session. The motion was seconded by Councilor Ramsell. Vote: Councilor Brown-yes; Councilor Gutjahr-yes; Councilor Sais-yes and Councilor Ramsell-yes. With a 4-0 vote Council went back into the regular business meeting session at 6:41 pm

#### **Public Comment**

- Ron Gentry property owner in Rio Communities; said he is here to speak regarding a problem he has with a building he acquired from VIA located north of City Hall. He said his letter explains why that building has become useless, unmarketable and he said the City caused damage to the building and won't fix it. He said he can't market his property and it's an embarrassment to the community. He also said no one has addressed the water flow which the City changed and asked that the matter be addressed before the monsoon season. He said he wants it in public record that there is a real problem – an eyesore and he can't get any assistance from the City.
- Lola Mallhullin said she talked to people at Tractor Supply and they would like to use the old Tillery building and asked if they could contact Council.
- Mayor Gwinn said we have contacted the owners of the Tillery building and let them know that there is some interest there, but he has not heard back from them.
- Rex Chaney Rio Communities; said would like know what is going to be done about farm animals in the community. He said his neighbor across the street has goats in the backyard that are loud and keep him up every night. He said he has been to Council about this matter before and was told that the City doesn't have an ordinance regarding farm animals and that is a County problem. He said he went to the County and they said Rio Communities should be taking care of it.
- Mayor Gwinn explained that the City has dealt with this issue several times and there aren't many cities that have a farm animal ordinance. He said he has contacted the livestock association and all they will do is a welfare check and if the animals are taken care of that is as far as they will go.
- Manager Haynes said she lived in a city that had an ordinance that regulated the number of farm animals allowed according to how much land the property owner had. She said she will get a copy of that ordinance.
- Angie who lives on Horizon Vista said there was an attempted home invasion on Horizon Vista. She said the people have a surveillance camera so it was caught on video and they called the police. She then said an RV on Horizon Vista was broken into and the police were called again. She said she is asking again for Council to consider a police officer and if a mill increase goes on the ballot it should be stated that the money is for another police officer. She said another safety concern is fire on the old golf course behind her house. She said the Fourth of July is coming and there will be fireworks even though they're banned and the dried weeds on the golf course are a fire hazard.
- Mayor Gwinn said the code enforcer has contacted the owner of that property to get the weeds cut.
- Angie also addressed the issue of farm animals in the community. She said people who need a service animal can only have one – not a herd of animals. She also said some cities near us have laws regarding the number of farm animals allowed.
- Mr. Wolf asked if we have a police officer and asked what the City is doing to attract business to the community. He said he renovates houses and has people interested in investing in flipping houses but he can't recommend here.

- Mayor Gwinn said the City has one police officer that is paid by the City. He also said the City is a member of Albuquerque Economic Development and our City Manager belongs to LEDA. He also said we partnered with Los Lunas Economic Development and arranged for people to drive through the community.
- Alan Zach said when businesses come here the first thing they see is the highways and asked if any effort is being made to hire contractors to mow the weeds.
- Manager Haynes said we are hiring two people who will be responsible primarily to mow weeds and trim trees.
- Mayor Gwinn said maintenance of Hwy 47 and Hwy 304 is the responsibility of the State.

#### **Manager Report**

- Manager Leisa Haynes said she is meeting with the Sherriff department to get a part-time officer hired. She said that's the best we can do now and that is an improvement.
- Manager Haynes explained that she has talked to several communities and all have single disposal companies. She said she has listened to the residents and heard what their needs are and we will try to write the best ordinance we can to address all the needs.
- Manager Haynes said we have ordered speed signs.
- Manager Haynes said she met with a developer who is going to start building homes in Rio Communities. She said the homes will be 2000 square feet on one-half acre lots. She also said they are USDA homes at 3.5% interest with nothing down. She said there are also ten to twelve homes being built on Tierra del Sol Loop which will be 1400 to 1800 square feet and construction will start September or October. She also said we're going to build a park this year if she can get the land purchased.
- Manager Haynes explained Council is committed to visual improvements because that improves quality of life and helps recruit businesses. She also said we have the money to build a path on the east side of Hwy 47 but we need permission from the Department of Transportation.
- Manager Haynes said Council decided lighting for four more intersections and will be able to light eleven or twelve intersections this year. She also said we have filled out a grant for \$712,000 for road construction. She said that has been approved and now we have to see if DOT will give us the money.
  - Resident asked if the utilities under the road will be redone.
- Mayor Gwinn said this is a 1" overlay and will not be a total reconstruction of the road. He said NM Water does not have plans to rehab any of their underground utilities at this time.

#### **Ordinance 2019 – Chapter 11; Article 4 Solid Waste**

- Mayor Gwinn asked if there were any further questions from Council.
- Councilor Gutjahr said we have listened to concerns and in order to proceed we need to pass an ordinance and include those areas of concern in the RFP (Request for Proposal).
- Councilor Ramsell said this is an actual ordinance versus the RFP so many of the concerns the residents have brought forward tonight will be addressed during the RFP process.
- Councilor Sais said this is the first step in a process and from there we deal with exceptions in the RFP.
- Councilor Gutjahr moved that we approve ordinance 2019-69 Chapter 11, Article 4 Solid Waste. The motion was second by Councilor Sais. Vote: Councilor Brown-yes; Councilor Ramsell-yes; Councilor Sais-yes and Councilor Gutjahr-yes. With a 4-0 vote Ordinance 2019-69 Chapter 11; Article 4 Solid Waste was passed, approved, adopted and signed.

#### **Accounts Payable approval**

- Finance Clerk Angela Valadez asked permission to pay the following bills.

#### **FIRE DEPARTMENT – Accounts payable**

Central NM (training)	\$	1,084.25	Century Link	\$	60.73
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Plateau	\$	468.36	Grainger Supply	\$	323.26
Grainger Supply	\$	468.50	Sharp	\$	9.05
Card Service Center	\$	2,471.79			

#### **CITY – Accounts payable**

NM JEC (May)	\$	6.00	Court Automation (May)	\$	12.00
Ameripride	\$	100.32	Heather Benavidez (Judge June)	\$	300.00
Ameripride	\$	35.44	Pamela Johnson	\$	127.50
Comcast	\$	289.48	Century Link	\$	203.08
Century Link	\$	84.85	NM Gas Co	\$	79.78
NM Water Service Company	\$	273.65	PNM	\$	24.72
PNM	\$	46.48	PNM	\$	74.42
High Point Bookkeeping	\$	1,450.41	Ron Gentry	\$	2800.00
Garcia & Sons (Keys)	\$	202.81	Albuquerque Publishing	\$	155.28
Universal Constructors (roads)	\$	59,708.39	Ameripride	\$	35.44
SeeClickFix	\$	4,800.00	CES (building construction)	\$	1,000.00
CES (building construction)	\$	56,422.76	AED (economic development)	\$	2,000.00
Sharp	\$	265.74	Elizabeth Adair (Court Clerk)	\$	241.89
Stalker Radar (equipment)	\$	6,844.00	Stalker Radar (equipment)	\$	11,163.00
Pamela Johnson	\$	102.00	Marilyn Winters	\$	1,020.00
NMML (court clerk dues)	\$	60.00	TLC Plumbing	\$	227.44
Village of Los Lunas	\$	5,904.75	Card Service Center	\$	1,160.80
American Fire & Safety	\$	33.44	High Point Bookkeeping	\$	993.80
Universal Constructors (roads)	\$	8,727.21			

- Councilor Sais moved to pay the bills. The motion was second by Councilor Ramsell. Vote: Councilor Gutjahr-yes; Councilor Brown-yes; Councilor Ramsell-yes and Councilor Sais-yes. With a 4-0 vote accounts payable for the Fire Department and the City were approved for payment.

#### **Resolution 2019-xx BAR #05 (budget amendment)**

- Tabled

#### **Close Bank Payroll Accounts**

- Finance Clerk Angela Valadez read into the minutes a letter that she will submit to the bank.
- Mayor Gwinn explained that we thought we would be doing in house payroll but we aren't so this account is not active and will be closed.
- Councilor Gutjahr moved to close the bank payroll account as read in the letter. The motion was seconded by Councilor Ramsell. Vote: Councilor Sais-yes; Councilor Ramsell-yes; Councilor Brown-yes and Councilor Gutjahr-yes. With a 4-0 vote Council approved the letter to have the payroll bank account closed.

#### **Election Question – Mil Levy: citizen vote vs. council approval**

- Mayor Gwinn explained that we discussed a mil levy and then said Councilor Ramsell is dealing with the assessor to see what the increase would need to be to pay for another officer. He said in talking with other entities, some say that it should be a yes or no question on the ballot for a broad public safety use so we don't earmark the funds.
- Councilor Ramsell said earmarking is a bad idea because that would back us into a corner down the road because the funds are isolated for a specific use. He said a broad use for public safety would encompass a lot of things the city will provide for the citizens in the short term as well as long term down the road. He said the mil levy should be left to the citizens to vote as to whether they want to approve that or not. He

said if they want more services provided, the city would have those recurring funds. He said if the citizens approve an increase in the mil levy, we'll have the recurring funds and if they don't we won't.

- Councilor Brown said he is in of favor the citizens vote for the mil levy. He said the other option would be to do nothing and remain status quo but his choice is to let the people vote.
- Councilor Sais said he would like it to be identified for public safety. He said he doesn't want it to be earmarked but public safety would take into consideration not only police officers but also fire fighters and a lot of other public safety issues. He said he would support a vote by the people yes or no for public safety.
- Councilor Gutjahr said it used to be that mil levies could sunset, but they can't anymore. She said if we earmark it for something as specific as an officer then we can never use the money any other way. She said she would like for the citizens to vote. She said this has been a difficult question and we've had a lot of good arguments and discussion because there is a concern. She said if we impose a mil levy, it has an impact on businesses as well as people buying houses here, but we need to have a way to pay for services. She said if we decide Council will pass the mil levy, we have to do that tonight, but we decided we don't want to be in that position, and she is in favor of letting the citizens vote.
- Mayor Gwinn explained what the process would be if we passed a mil levy and how much it should be. He said if the people vote to move forward, we'll meet with the assessor and see how much it should be.
- Councilor Ramsell moved that the mil levy be a citizen vote on the ballot for the November election. The motion was seconded by Councilor Brown. Vote: Councilor Gutjahr-yes; Councilor Brown-yes; Councilor Ramsell-yes and Councilor Sais-yes. with a 4-0 vote Council approved to put the Mil levy on the next regular election in November.

#### **Resolution 2019-xx BAR #05**

- Tabled

#### **Executive Session on the City Manager 3-month review & limited personnel matters. NM Section 10-15-1 (B)(H)(2)**

- Mayor Gwinn asked for a motion to go into executive session for the City Manager's three-month review and other limited personnel matters under NM Section 10-15-1-dh2.
- **Motion and roll call vote to go into close session**
  - Councilor Gutjahr moved with roll call vote to go into a closed session for the City Manager three-month review and limited personnel matters according to NM Section 10-15-1-dh2. The motion was second by Councilor Ramsell. Vote: Councilor Brown-yes; Councilor Sais-yes; Councilor Gutjahr-yes and Councilor Ramsell-yes. With a 4-0 vote Council went into executive session on the City Manager 3-month review & limited personnel matters. NM Section 10-15-1 (B)(H)(2) at 7:24 pm.
- **Motion and roll call to go back into regular business meeting session**
  - Councilor Gutjahr moved with roll call vote to go back into regular business session. The motion was second by Councilor Sais. Vote: Councilor Ramsell-yes; Councilor Sais-yes; Councilor Gutjahr-yes and Councilor Brown-yes. With a 4-0 vote Council went back into the regular business meeting session at 8:49 p.m.
- **Welcome everyone back and statement by the Mayor: The Governing Body of the City of Rio Communities, New Mexico, hereby states that on June 25, 2019 a Closed Executive Session was held and the matters discussed in the closed meeting were limited only to the City Managers 3-month evaluation report and limited personnel matters as posted on the agenda.**
- Mayor Gwinn made the above statement.

#### **Action results from Executive Session**

- There was no action from executive session.

#### **Council Reports**

- Councilor Ramsell said he reached out to the NM State Police about their potential use of office space in City Hall. He also said he the County assessor's office and the person he talked to said they can't give us any estimations or projections on the mill levy and directed me to the DFA. He said the Mayor says it should be the assessor's office so he will try to contact them again.
- Councilor Brown said he will be gone until the 15<sup>th</sup> and will miss the next Council meeting.
- Councilor Gutjahr said the citizen patrol meets tomorrow night at 6:30. She said flyers have gone out and she and Councilor Ramsell will be here.
- Manager Haynes said she will leave tomorrow to attend a city managers' meeting in Ruidoso.

#### **Adjourn**

- Councilor Gutjahr moved to adjourn. The motion was seconded by Councilor Sais. With a 4-0 vote the City Council regular business meeting was adjourned at 8:54 pm.

Respectfully submitted,

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Elizabeth (Lisa) Adair, Municipal Clerk  
(Transcribed by Pamela Johnson)

Date: \_\_\_\_\_

Approved:

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Mark Gwinn,  
Mayor

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Margaret (Peggy) Gutjahr,  
Councilor Mayor Pro-tem

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Bill Brown,  
Councilor

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Joshua Ramsell,  
Councilor

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Arturo R. Sais,  
Councilor