

City of Rio Communities Workshop Minutes
Tuesday July 24, 2018

- Mayor Gwinn called to order the city council workshop at 10:00 am
- Present: Mayor Mark Gwinn, Councilors; Bill Brown, Peggy Gutjahr, Arturo Sais and Joshua Ramsell.
Present: City Manager Bob Skerry, Municipal Clerk Lisa Adair, Finance Officer/Treasurer Celina Benavidez, P&Z Member Jim Winters and Fire Chief L.E. Rubin.

Council reports & agenda items – 30 minutes

- Councilor Ramsell asked if we can ask the water company to make the fire hydrant next to the fire station operable so the people at the fire station wouldn't have to get water from hydrants on residential streets and they would be closer to the station.
- Chief Rubin explained that pressure to businesses down the line is reduced when that hydrant is opened. He suggested the fire department could address the matter in a letter to the water company or Council could bring it up with them.
- Councilor Ramsell asked for an update on the status of the parks.
- Manager Skerry said he doesn't have an update at this time.
- Councilor Sais said the City is going through a transition and there are lingering issues that need to be resolved such as the administrator/manager issue, hiring a code enforcer, hiring a finance assistant, re-establishing the fire department, budgeting an additional law enforcement officer and work on City Hall. He also said the division between the policy makers and the administration needs to be resolved.
- Councilor Brown gave the report on Saturday's clean-up. He said the lines were very long and the three containers we ordered were all filled by 11 a.m. He also said a lot of people brought branches and there was no chipper there. He said if we aren't going to have someone there with a chipper, we're going to need three containers in the future.
- Mayor Gwinn said he got calls from a few people saying several of the vehicles at the clean-up were not from Rio Communities but if we don't take their trash here, they'll dump it on the mesa.
- Councilor Brown said we are now at the end of the four-month trial period on having the public input at the City Council meetings. He said its time to decide whether to discontinue it or do it permanently and he suggested that be addressed at the next Council meeting.
- Councilor Brown mentioned the plan for trails that will go from City Hall along the bosque and back again. He asked if we know who owns the property that would be impacted.
- Manager Skerry explained that hopefully we can get the property from negotiations with Herman Tabet. He said access to the twenty-seven acres from Habitat for Humanity is by the arroyo and dedicated roads, so we don't go on private land except for Tabet's land. He said this all ties into Tabet's subdivision which he is working on now.
- Councilor Gutjahr said we put out a list of priorities for Council's discussion at the beginning of July. She said she gave a revised list to Mayor Gwinn and she could present it at the first workshop in August. She said one of the items has to do with the additional sheriff's deputy which we can bring up at the workshop in August and the other thing on the list was training on procurement for Council. She also asked for an update on PERA because we've had to delay hiring because of PERA.
- Mayor Gwinn said he and Lisa attended the annual resolution meeting to finalize the thirty-eight resolutions not counting the four that will pertain to elections.

- Mayor Gwinn said he met with the people about school buses and there will be another bus and extra routes added to the City. He said he gave Manager Skerry a list of where the potholes are that may affect those routes as well as street signs that need to be replaced.
- Mayor Gwinn reminded Council that National Night Out is on August 7, 2018 from 5:30 pm to 8:00 pm.
- Councilor Gutjahr said she understand the logic behind taking trash at our clean-up that otherwise would end up on the mesa. She asked if there would be a way for the people who live in the City get to be first.
- Mayor Gwinn said he will put this matter on the Council's agendas for the first meetings in August.
- Mayor Gwinn asked the Councilors to give information to Lisa if they want to attend the annual meeting.

ICIP – Discussion

- Manager Skerry said they're saying there will be a one-billion-dollar surplus from oil and gas so this may be the year to increase our request. He said one priority should be a drainage study, but we need a rough idea of the cost and we're running out of time. He also said a design of trails and open space should be included but we need hard core numbers.
- Manager Skerry said we need to get information out in the newsletter that people need to buy flood insurance if they think they're at risk. He said people think the City's insurance pays for damage to their house because water from the street caused the flooding, but some houses are below the grade of the street.
- Manager Skerry said in the past we included roads in our ICIP and stuck to Horner, Hillandale and Golf Course. He said if we want to add other roads and request \$400,000 to \$500,000, now may be the time but we need to come up with dollar specific amounts.
- Mayor Gwinn said what we have on the TIP might be the best way because if we put Goodman in and rebuild that road with sidewalks, that would tie in to walking trails.
- Manager Skerry explained that TIP would cover Horner, Hillandale and Golf Course but it's a five-year plan and began a discussion on roads to repair and cost involved. He further explained that the legislature won't give us money to re-top Del Fuego unless we have a drainage plan and if we do get the funding we only have two years to use it.
- Jim Winters said we'll have to put Nancy Lopez and Lee Trevino in the mix because of the patching situation there and they'll be expensive to fix.
- Councilor Brown said the transportation plan that already exists seems to be the starting point for any conversation about roads and what the progression was going to be.
- Manager Skerry said were assuming \$200,000 and \$300,000 through the DOT but maybe there is a possibility of more now and continued discussion on the order of priorities in our ICIP. He said the building should be left in because there will be additional funds for such things as fire suppression.
- Councilor Gutjahr said people on Nancy Lopez and Lee Trevino have been waiting a long time and this may be our chance to get funding.
- Manager Skerry said that has been planned and we gave the water company a year's notice and they had to budget a year ahead. He continued discussion on priorities in the ICIP and said anything not on the ICIP will not get funding so if we want to add things it's better to have too much on the list than not enough. He then reviewed the requirements and deadline for submitting ICIP.
- Chief Rubin asked if the fire department should get their priority list to the City Manager.
- Manager Skerry said he needs an updated list.

- Clerk Adair suggested the priority lists be submitted to Manager Skerry before the 14th.
- Councilor Brown said priority #1 is still the building but the last information he has is dated September 19, 2017 and asked about an update.
- Manager Skerry said the last update is dated 2019-2023. He said some of the phases of work on the building are not complete, but some things are not covered by grant money. He said Council set aside money to complete the building and the only unknowns are the final cost of a fire suppression system and the cost for removing interior walls.
- Councilor Brown asked how much cash we have on hand. He said what we approved for City Hall is \$528,000 with options totaling \$96,000 plus the cost for drainage of \$82,000.
- Manager Skerry said we're at \$800,000 which includes the drainage and then explained where that money came from and where we would get money to complete the building.

Public input/questions (3) minutes to address the Council

- No public input.

September 19th Meet your Legislator day – Discussion

- Mayor Gwinn said we need to start sending letters to the legislators letting them know that we've scheduled the "Meet your Legislator" day.
- Councilor Gutjahr said we should talk about what we want to address with them at our next meeting.

Public input/questions (3) minutes to address the Council

- No public input.

RGEFD – Policies and Procedures – Discussion

- Mayor Gwinn said we are asking the Chief what policy and procedures exist for people who volunteer. He said we have verification from NMML that the City covers insurance on personnel and certain guidelines are not being met so we need an update on where we are with meeting those requirements.
- Councilor Brown verified that the funds for their insurances comes from fire funds – not the City.
- Manager Skerry said we cover the vehicles and the building not the personnel but we have requirements that must be followed.
- Treasurer Benavidez said bonding will come up with the auditors this year. She said anyone handling financial transactions according to our policy should be bonded for \$50,000.
- Councilor Gutjahr said since they are not our employees, there is a section in our Personnel Policy on volunteers and what they are required to sign. She also said people call her with concerns and she wanted to have an open discussion on the following issues: 1) Flow chart of calls and how decisions on coverage are made. 2) Fear of retaliation for speaking out. 3) Procedure and criteria for promotions. 4) Concern from previous Council regarding having a certain individual on the force.
- Councilor Ramsell said his biggest concern is that we have enough staff to answer all the calls. He said we're 100% volunteer so there are some limitations, but we need to have volunteers there. He said another concern is when calls get sent to our district and we don't respond, will the County be looking at that.
- Councilor Sais said his concern is the separation between Tierra Grande and the main station.
- Mayor Gwinn said his concerns are: 1) The process of the attention to a call. 2) Concern to damage of one of the vehicles and who the driver was.
- Mayor Gwinn said he has looked over RGEFD policies and procedures but would like to see where we are with updating those and making sure the people know what their obligations are.

- Councilor Gutjahr said for some reason there is an increase in the number of people – some at the fire department and some in the community that are unhappy. She said the main concern is how the decision on calls is made and the fact that there is such an upheaval in the fire department.
- Councilor Sais said people have told him they are frustrated about not knowing who is at the department.
- Councilor Brown said his only concern is that we are the fiscal agent except for the insurance and we are dealing with things that aren't under our jurisdiction as the fiscal agent.
- Chief Rubin said the fire department image is not under his control and it is very disheartening that the fire station building project has taken over two years and then explained what work is currently being done on the building.
- Manager Skerry said the contract for the work the insurance would cover is complete but the addition of sheetrock, paint, drop ceiling and extra lighting was not covered by insurance. He said what is being done now is esthetic and will be completed with the fire funds.
- Chief Rubin said he is aware of damage to the truck but does not know how it happened. He said the cost for repair of the damage will be less than \$1,000. He said he was not aware of the accident when it happened and still does not know the details.
- Mayor Gwinn asked if drivers keep a log book.
- Chief Rubin said they used to keep a record of who drove the vehicle on every call, but they are not doing that at this time. He said he will re-implement that procedure.
- Mayor Gwinn asked if they've taken the truck to an appraiser to see what the cost of repair will be.
- Chief Rubin explained the truck is scheduled to go to Summit in Albuquerque and he requested a purchase order. He said there are other problems with the truck that are mechanical, and it didn't pass the pump test. He said that is a problem now because that is one of three trucks that must pass a pump test to qualify for the grant from the State Fire Marshal.
- Chief Rubin said at the last Council meeting he mentioned he is going to make some administrative changes in management at the department and there will be some rumbling. He said it is on the agenda to be discussed and the progressive discipline policy will be followed.
- Chief Rubin said no one has ever asked for a copy of the roster or the list of drivers but anyone who asks can have it. He said he will have those available at the meeting tonight. He said there are twenty-five volunteers on the roster and then discussed the schedule and changes that need to be made.
- Mayor Gwinn asked Chief Rubin to talk about scheduling at the meeting tonight because people don't understand why trucks from other fire departments show up when we have a fire department here.
- Chief Rubin said we are an all-volunteer department and he thinks it's important to get four paid EMT/fire fighters to give us people at the station twelve hours a day seven days a week. He further explained that they have SOPs (Standard Operating Procedures) and SOGs (Standard Operating Guidelines) and Jason Gonzales has re-written some but they all reference the Valencia County Fire Chief and the Valencia County Commission. He said those will be updated and he anticipates they will be corrected by the end of the year and he will give a copy to Council.
- Chief Rubin said he has spoken with Manager Skerry about the drug testing issues. He said the problem they have with testing is the definition of "random". He said he will require everyone to be tested.
- Councilor Gutjahr asked if there is a way that Chief Rubin not be the person involved in choosing the people for random testing.

- Chief Rubin said he intends to use Qwest Labs and Clerk Adair will receive the results directly from the lab. He then continued the discussion on the issue of the use of prescription drugs.
- Councilor Gutjahr said she understands the dilemma and thinks there is guidance on what to do in situations where prescription drugs are an issue. She said she will get more information to the Chief.
- Chief Rubin said anyone with the fire department has to have a Class E driver's license and explained the process of converting their license to a Class E.
- Chief Rubin said flow charts showing when calls come in are sent by the Valencia County Emergency Dispatch Center and explained that they are in the process of changing their software that will not only tell us the number of calls and who went on the calls but also when the priority times are.
- Chief Rubin explained that he recently demoted some people and opened the lieutenant position back up and there are people that are unhappy. He said the lieutenants and the captains serve at the pleasure of the fire chief and he has the authority to promote and demote people.
- Councilor Gutjahr asked about the term "serves at the pleasure of" and asked how honest the dialogue is for the people involved.
- Chief Rubin said maybe "pleasure" is the wrong word and it should be at his "discretion".
- Councilor Gutjahr said it should be discretion with some guidelines and criteria.
- Chief Rubin said decisions regarding demotions weren't made quickly or half-heartedly. He said the department needed to be reorganized and he has had that discussion with Council. He said there isn't retaliation because of something someone said or did, but the choices made were based on issues he felt were important to the station. He then explained the SOPs and SOGs regarding promotions and qualifications required.
- Chief Rubin explained they are never going to make 100% of the calls but there have been times when they made more than 100% because they made all the calls for our district and mutual aid for other districts. He said there has been talk that the County Fire Chief is petitioning the State Fire Marshal to take back the unincorporated area of our district. He then explained that he wouldn't include our station because station #2 is owned by the City.
- Chief Rubin said Mr. Gonzales had issues in 2016 and then explained that he understands that we are going to have a discussion regarding a personnel issue in a public forum, but personnel issues should be discussed in a closed session. He then distributed information from NM Courts showing Mr. Gonzales was charged with false imprisonment and impersonating a peace officer but both charges were dismissed by the prosecutor.
- Mayor Gwinn explained that was an issue on social media two years ago and the episode caused Mr. Gonzales to lose his position at the county.
- Councilor Sais said the Council took a stance on the matter at the time, but we have a new Council now and maybe we need to have a vote of confidence for Mr. Gonzales.
- Chief Rubin said he doesn't know what authority Council has over a volunteer fire department and there is a mechanism inside the department to bring people in. He said they grilled Mr. Gonzales and decided he is eligible, and he doesn't want him to be grilled again by Council.
- Mayor Gwinn said the Municipal League's understanding is that while we may not approve of his character, it's still in the hands of the fire department and Council has no authority over personnel in the department. He said we can only voice concern that we don't want him to represent our city.
- Chief Rubin said he was told it was not a recommendation but a mandate by the Council.
- Manager Skerry said Mr. Gonzales was aware of the recommendation and it was a risk management issue.

- Treasurer Benavidez said anyone applying for a bond has to pass a background check and a credit check.
- Councilor Gutjahr said her concern has been the face a person presents and has nothing to do with skills. She said the biggest issue was the lapse in judgement when pictures were posted because of the perception it gave. She said it presented the question of how Mr. Gonzales would supervise women and further commented that Mr. Gonzales never said publicly that he had made a mistake.
- Mr. Gonzales said he did do that by submitting a letter to the newspaper that was published.
- Maryanne Rittner-Holmes said she is invoking the Whistle Blower's Protection Act prior to making comments. She then said that on June 19, 2018 she was required to be here to be sworn in to issue fire citations and was in uniform. She explained that prior to the requirement to be here she was told by credible sources that Chief Rubin was using her name without permission to support his agenda and that she was telling people that she would quit the fire department if Council hired a fire chief. She said that is not true and she tried to make a public statement clarifying her position without calling names. She said after she made her statement and made it clear that she was speaking as an individual, Chief Rubin was heard by multiple people threatening to demote her because she commented against him, so he must have felt a sense of disloyalty or betrayal. She said if there is a charge of retaliation it would have happened before Council was notified of the changes that would be coming. She also said she and her husband are pursuing legal outlets for violation of her First Amendment rights. She said she and a gentleman were demoted and when Jason Gonzales was informed of that, he resigned in protest so now we have three officers. She then said on July 12, a select group of people was notified to interview for the officer positions. She said six regular members were qualified to take those positions but were not invited to be interviewed. She then said only regular members can be promoted according to the bylaws and some of the people invited to interview were clearly probationary members and not qualified. She said Chief Rubin is correct that he promoted two probationary members, but the six regular members were not asked to interview. She then said one of the probationary members hired is Steve Gonzales' step-daughter who has no credentials and is related to the captain to whom she will report, and she has a long history with the Chief as well. She said they received a text from Mr. Gonzales letting us know that because regular members did not step up to the plate and take the officer positions, Chief Rubin suspended the policy. She said the policy is not fair and impartial. She said it appears there was a manipulation of policy to put people they wanted in place by bypassing qualifications and asked Council to hire a fire chief because we need people that have accountability.
- Chief Rubin stated that he did talk to the members and they declined to come for an interview for the positions. He then said Mr. Gonzales' step daughter was a member of the fire department for several years and was not related to Mr. Gonzales at that time.
- Chief Rubin said he has said before that Ms. Ritner-Holmes is one of the best EMT's we have so that was not a consideration to demote her. He said the decision that she shouldn't be an officer was made long before she made her statement to Council.
- Councilor Gutjahr said placing someone in a position such as Mr. Gonzales' step-daughter who reports to him and has a close relationship to Chief Rubin is a perception of favoritism and she understands that the perception is not always the action.

Political Campaigning Issues at City Events – Discussion

- Councilor Gutjahr said she called the Secretary of State's office and was first told it wouldn't be an issue to have people running for office coming through the City and campaigning. She said the more she researched, the more she wondered where to draw the line, so she called the ethics department at

the Secretary of State's office and was told that there is a fine line but when an event is held on city property they have every right to be there and hand out literature and talk to people. She said if we have questions after today's meeting we can e-mail them to her and she will get a ruling.

- Mayor Gwinn said he spoke with Randy at NMML and his feeling was that our facility is a city council meeting place but also a multi-purpose complex where other activities are held, and we have to make sure we aren't interfering with people's First Amendment rights. He also said if someone disrupts a gathering the city has the right to ask them to leave and they must understand they can't get into debates with other candidates. He said people running for office are not allowed to come to a city council meeting with campaign tee shirts or any other type of campaign materials.

Rescheduling August 28th City Council Workshop and Regular Business Meeting - Discussion

- Mayor Gwinn said the meeting on August 28th falls during the week of the conference and he's looking at rescheduling that meeting for the 21st. After some discussion, it was determined that the regular business meeting currently scheduled for August 28th should be rescheduled for August 20th.

Resolution 2018-xxx 4th Quarter Financial Report – Discussion

- Treasurer Benavidez explained the fourth quarter financial report. She said she has not received approval on the resolutions from DFA and we have to get their ok before we pass a resolution.
- Treasurer Benavidez also said that our general fund is only at \$950K and DFA feels we're depleting our general fund and continued with the fourth quarter report.
- Treasurer Benavidez said she doesn't have anything on the final budget because she hasn't heard from DFA. She said when she hears from Cordy hopefully we'll have what we need because our deadline is July 31st.
- Mayor Gwinn said he needs to know about things like that and he can bring it up at conference.

Administrator vs Manager - Discussion

- Mayor Gwinn said Council has had the opportunity to look at information on manager vs administrator form of government and started a discussion. He said we need to realize that currently we're a mayor/council with a city manager.
- Councilor Gutjahr said she gathered information on both forms of government and we can have as much input with a manager as we would with an administrator. She also said the fire chief and the police chief could be under Council. She explained that she talked to people at cities that have administrators and the only difference seems to be that an administrator does much the same things as the manager does but much more dialogue exists between an administrator and council. She said it comes down to how well we work with the person in the position.
- Councilor Sais said he also looked at different forms and there but there are limitations that have been put on Council and mentioned lingering issues and the fact that council is stagnant. He said a lot of good things have been accomplished since incorporation and now we're going through a transition and need to work together to get to the next step. He said he is hesitant to say we can improve on a manager situation and he would like to be more involved as a Counselor so he's looking more at the administrator form. He said the manager has limited Council as policy makers. He said he has seen a better working relationship between council and administrators in other cities. He said Councilors need to know what is going on because we have responsibility to constituents. He said we need a change that will move the city forward and that is the administrator form of government.
- Councilor Ramsell said looking at the difference between the two positions and said down the road maybe a better route but if we are looking at PERA we need to continue with what we have now.

- Councilor Brown said he is in favor of an administrator form because he wants the option of being able to delegate what we want the administrator to do which could include some of the city manager's responsibilities.
- Manager Skerry said while Council makes the decision on the form of government, their focus should be policy because that's why a council is elected – not to run the day to day business of personnel or city hall. He said Council voted to have a merit-based personnel policy and a manager is 100% in charge of personnel to make sure the policy is merit based. He said he wants direction from Council regarding policy but does not want them to get involved in the day to day operation at city hall. He said he doesn't want to be told how to do his job and then have his evaluation based on how well he did with Council's decisions.
- Councilor Gutjahr said she doesn't want to be a part of the decision-making process in the day to day operation at City Hall or say who should be hired and who shouldn't. She said, if the City Manager invites conversation on issues such as the way the interview process is set up, she would like to have the opportunity to make suggestions and have some dialogue. She also said conversations turn into arguments and the City Manager has the final say.
- Councilor Sais said the process must be transparent and Council wants to be part of the process. He said Rio Communities is a small community and the Councilors get a lot of information. He said if Councilors aren't included we become a bureaucracy.
- Mayor Gwinn said the new resolution will protect people working under the mayor. He said this resolution has been to state government but never made it out of committee and technically according to their statute every municipality has to go through the organizational chart each time a mayor is elected and cut whoever they want.
- Councilor Gutjahr said she understands that if a city manager oversees personnel when council changes the only position that changes is the city manager or administrator. She also said she understands the advantage to people who work for that person as well as continuity of process for people staying in their position. She said having someone in the day to day operation that we hold accountable is the way to go but the difference is what is political and what our roles are and sometimes that is not clear.
- Manager Skerry acknowledged that is valid advice and most issues he gets adamant about involve state statutes, but he needs to be more diplomatic.
- Councilor Gutjahr said this matter should be on the next agenda and a decision should be made at that time.

Manager Report

- Manager Skerry said he has narrowed the number of applicants for the finance position down to five and is trying to set up interviews. He also said the first round of applicants for code enforcer were not qualified but he has received three more that look pretty good, so he will be ready to go to interview. He said it will take almost a month from the time we make the decision until they start.
- Manager Skerry read a letter he received on October 18, 2017 from Chief Culp at the Valencia County Fire Department requesting a meeting to discuss EMS mutual aid calls. The letter stated that from January 1, 2017 through October 17, 2017 they ran 103 EMS calls in District 1 and 93 went into the City itself. Chief Culp said the best way to solve this problem is to meet and work together.
- Manager Skerry said the County has been trying to establish a record and take the fire department back since last October. He said his assumption was that we would have PERA installed by July 1. He said we've spent the last eight months hashing this out and the reason for PERA is not necessarily for

staff but because he saw little chance of getting a chief and an assistant chief without PERA. He said there has been discussion about how to deal with volunteers and he distributed information regarding hiring strategies to meet OSHA requirements. He said to meet the fiscal requirements, we need to have someone to do the paperwork and perform administrative duties at the fire department.

- Councilor Gutjahr said she talked with Manny Garcia, Fire Chief for the City of Belen and he told her he was appointed by the Mayor and Council, but he works under the City Manager. He said the position can be listed differently on an organizational chart but the day to day business is with the City Manager.
 - Mayor Gwinn asked that this matter be on the agenda for the next meeting to give Council enough time to review the information Manager Skerry gave them.
 - Manager Skerry explained the blinker signs are being assembled. He said the pieces are in the ground and the signs are ready to go up. He also said all the remaining stop and street signs are up except for Rio Communities Way and we had to call for a line locate.
 - Manager Skerry said construction will start on the City Hall Complex on Monday July 30.
 - **Public input/questions (3) minutes to address the Council**
 - No public input.
- The City Council workshop was adjourned at 3:02 pm.

Respectfully submitted,

Pam Johnson, Deputy Clerk
(Taken by Lisa Adair, Municipal Clerk)

Date: _____

Approved:

Mark Gwinn,
Mayor

Margaret (Peggy) Gutjahr,
Councilor Mayor Pro-tem

Bill Brown,
Councilor

Joshua Ramsell,
Councilor

Arturo R. Sais,
Councilor