

**REGIONAL WASTEWATER TREATMENT PLANT JOINT USE BOARD
REGULAR MEETING
313 CREE MEADOWS DRIVE
RUIDOSO, NM 88345
MARCH 17, 2010**

Chairman Gus Raymond Alborn called the regular meeting of the Regional Wastewater Treatment Plant Joint Use Board to order at 10:00 a.m. Members Angel Shaw, Village of Ruidoso Councilor; Carol Virden, City of Ruidoso Downs Clerk/Treasurer; Tom Armstrong, City of Ruidoso Downs Mayor; and Dave Parks, County of Lincoln Commissioner were recorded present. Village of Ruidoso employees present were Debra Lynne Lee, Village Manager; William P. Morris, Deputy Manager; Bertha Randolph, Deputy Clerk; Nancy Klingman, Finance Director; and Randall Camp, Public Works Director. City of Ruidoso Downs employee present was Cleatus Richards, Public Works Director. Village of Ruidoso legal counsel present was Daniel A. Bryant. City of Ruidoso Downs legal counsel present was H. John Underwood. Michelle Salas, with Molzen-Corbin & Associates was also present. There were approximately 18 visitors present.

Chairman Alborn stated he and Councilor Shaw looked forward to working with the City of Ruidoso Downs (CORD) to continue and complete the construction of the Regional Wastewater Treatment Plant and commended all those who have been a part of the project.

Commissioner Parks moved to approve the minutes of November 12, 2009 Regular Meeting and January 22, 2010 Special Meeting. Councilor Shaw seconded and the motion carried with all ayes.

Chairman Alborn introduced Election of Officers for Chairperson, Vice-Chairperson and Secretary. Councilor Shaw inquired the duties of the Secretary. Daniel A. Bryant stated he would develop administrative polices to outline the duties of the Secretary. After brief discussion, Carol Virden moved to appoint Mayor Armstrong as Chairman, Mayor Alborn as Vice-Chairman, and the Village Clerk and/or the Deputy Clerk as Secretary. Councilor Shaw seconded and discussion continued. Mr. Bryant stated it was appropriate for the Clerk's Office to serve as Secretary. Chairman Armstrong allowed Vice-Chairman Alborn to conduct the meeting. Vice-Chairman Alborn called for a vote on the motion and the motion carried with all ayes.

Vice-Chairman Alborn introduced Financial Report. Nancy Klingman stated the following: the projections were averaged; a financial quarterly report would be provided; and the figures did not include those of the City of Ruidoso Downs (CORD). Carol Virden stated she would like to see the total budget for the Ruidoso Regional Wastewater Treatment Plant, including the budget figures from the CORD. After brief

discussion, Ms. Klingman stated she would meet with the Finance Director from the CORD to create a combination or a side-by-side budget presentation.

Vice-Chairman Alborn introduced Update on the Regional Wastewater Treatment Plant Construction Project. Randall Camp stated the break in the bad weather helped to get the cement poured; was satisfied with the progress to date; and the block work had begun. Michelle Salas displayed poster boards showing the progress of the construction project. Ms. Salas stated there were two phases to the treatment plant construction project as followed: 1) Phase 1A, which consisted of a sludge processing building, where the aeration basins transported sludge to the thickener building, to the digester, and then through a belt filter press to dry out the sludge; and 2) Phase 1B, which included the new influent lift station, an electrical building, a new entrance works and the two aeration basins would be converted into equalization basis so that during high flows effluent could be transferred to those basins. Ms. Salas stated the following: the main process occurred in the secondary treatment structure; chemicals were added to remove the nitrogen and phosphorous; the construction was proceeding on schedule, based on the revised schedule due to the change orders issued; the construction schedule at bid time was due to have substantial completion by December 19, 2010; the new substantial completion date was March 10, 2011; the contractor had three months after the treatment plant was in operation to modify the aeration basins into the equalization basins and could not be done until the new plant was online; the original construction price was \$20,202,224.00 and with change orders was now \$20,549,891.00; the main slab was cast for the entrance works; the slab for the equipment room was poured; were working on the north wall; many of the basins were constructed for the secondary treatment structure; were beginning on the masonry work on the building; the electricians were installing conduits in the concrete; and the yard piping continued.

Vice-Chairman Alborn introduced Discussion and Possible Action on Agreement Between the Village of Ruidoso and the City of Ruidoso Downs, Together as the Joint Use Board, with Montgomery and Andrews, P.A. for Professional Legal Services Related to the Regional Wastewater Treatment Facility and Joint Use Board. Carol Virden stated, in reviewing the Request for Proposal and the agreement, suggested it read that the agreement was between the Regional Wastewater Treatment Plant Joint Use Board and Montgomery & Andrews, P.A. only. H. John Underwood stated the contract should be amended to state the agreement was between Montgomery & Andrews, P.A. and the Joint Use Board, since the Joint Use Board was the contracting agency. Daniel A. Bryant stated the following: the scope of work included that the attorney might be required to assist in a variety of organizational issues, which affected the Joint Use Board; and the task orders to the attorneys should be presented from the Joint Use Board and not from the City of Ruidoso Downs or the Village of Ruidoso, since each respective Council had its attorney. Councilor Shaw stated the following: Mr. Bryant and Mr. Underwood should get together to consider the Joint Use Board proposals, so that when they met with each entity and made a recommendation for the

Joint Use Board on ways to address the municipal representation, the attorneys would be in agreement and then those recommendations could be presented back to the Joint Use Board; should work as a collective group by having the attorneys define the municipal representation fairly to the Joint Use Board; individual Councilors had trouble communicating directly with Mr. Kendrick, due to the lack of the process being defined clearly. Mr. Underwood stated individual communication with Mr. Kendrick was not shared, creating mistrust amongst the municipalities. Mr. Bryant stated the following: Mr. Kendrick needed to be able to communicate with each member of the Joint Use Board individually, collectively, etc.; Mr. Kendrick needed to be free to represent the best interests of the Joint Use Board and advise the Board what those things were; and suggested organizational issues be put back into Mr. Kendrick's contract as long as all members of the Joint Use Board were represented. Ms. Lee stated the task orders should be initiated by the Joint Use Board and it needed to be decided who was going to prepare the task orders and how communication would occur. Mr. Bryant stated the Joint Use Board had never been treated as a separate legal entity, as recommended by the Village of Ruidoso's audit findings, and recommended the Joint Use Board scheduled budget workshops to create a budget to be reviewed and approved. After brief discussion, Mr. Bryant recommended renewing the contract until the contract was revised, in order to allow current invoices to be paid. Ms. Lee stated Mr. Kendrick provided quarterly reports that were necessary and recommended an extension to the contract be approved. Commissioner Parks moved to extend the Agreement Between the Village of Ruidoso and the City of Ruidoso Downs, Together as the Joint Use Board, with Montgomery and Andrews, P.A. for Professional Legal Services Related to the Regional Wastewater Treatment Facility and Joint Use Board through May 31, 2010. Councilor Shaw seconded and the motion carried with all ayes. Councilor Shaw moved to direct Daniel A. Bryant and H. John Underwood to get together to define a proposal for the municipal representation, as well as a task order system and communication through the revised contract. Carol Virden seconded and the motion carried with all ayes.

Vice-Chairman Alborn introduced Discussion and Possible Action on Approval of Contract Amendment No. 7 Between the Village of Ruidoso and Molzen-Corbin & Associates Involving Professional Study, Design, and Construction Phase Services for the Village of Ruidoso and the City of Ruidoso Downs Regional Wastewater Treatment Plant Joint Use Board. Debra Lynne Lee stated the following: the Village of Ruidoso staff was directed by the previous Mayor and Council to enter into negotiations with Molzen-Corbin & Associates regarding the costs; the \$200,000.00 amount was an arbitrary number used to begin negotiations and wanted to be certain that the Operation and Maintenance Manual, Startup/Training Assistance, and Video Taping Services be accomplished without sacrificing the integrity or quality of the work; staff met with Ms. Salas and reviewed those costs; and recommended approval of Amendment No. 7. Carol Virden moved to approve the Operation and Maintenance Manual, Startup/Training Assistance, and Video Taping Services for the total amount of \$320,700.00 and, if they spent less for those services, that actual costs were billed for,

as well as, if the actual costs exceeded that amount that it be authorized to pay Molzen-Corbin & Associates those additional fees by accepting the letter received from Molzen-Corbin & Associates dated March 10, 2010, and to remove the not to exceed clause. Commissioner Parks seconded and discussion continued. Councilor Shaw recommended the not to exceed clause remained. Ms. Lee stated the following: if the amount of \$347,000.00 was approved, it would defeat the purpose of the negotiations. Daniel A. Bryant recommended approval of Amendment No. 7 and then, if there were any additional fees, those would come back to the Joint Use Board as Amendment No. 8. After lengthy discussion, Vice-Chairman Alborn called for a vote on the motion and the motion failed with Carol Virden and Chairman Armstrong voting aye and Commissioner Parks, Councilor Shaw, and Vice-Chairman Alborn voting nay. Commissioner Parks moved to approve Contract Amendment No. 7 Between the Village of Ruidoso and Molzen-Corbin & Associates Involving Professional Study, Design, and Construction Phase Services for the Village of Ruidoso and the City of Ruidoso Downs Regional Wastewater Treatment Plant Joint Use Board not to exceed \$320,700.00. Councilor Shaw seconded and the motion carried with all ayes.

Vice-Chairman Alborn recessed the regular session at 11:05 a.m. and reconvened at 11:10 a.m.

Vice-Chairman Alborn introduced Discussion and Possible Action Regarding the Operation and Organization of the Regional Wastewater Treatment Plant Joint Use Board, Shareholder Proposal for Ownership and Operation of the Regional Wastewater Treatment Plant. Carol Virden moved to postpone item #7 until after the completion of the construction of the Regional Wastewater Treatment Plant. Commissioner Parks seconded and discussion continued. Daniel A. Bryant stated the following: there were issues that needed to be addressed administratively and recommended that the organizational structure and municipal representation issues be postponed until after the construction of the plant and the permit conditions were met; in the meantime, the Village of Ruidoso and the City of Ruidoso Downs should work together on other administrative issues, budget process, etc.; requested he and Mr. Underwood received direction to begin to present policies to Mr. Kendrick and then back to the Joint Use Board on a monthly basis for the Joint Use Board's consideration; and it would be appropriate to make another motion, even if the item was postponed. After brief discussion, Vice-Chairman Alborn called for a vote on the motion and the motion carried with all ayes. After further discussion, Councilor Shaw moved to direct Daniel A. Bryant and H. John Underwood to develop administrative policies, procedures, and standard operation procedures that would define management responsibilities, placement of items on the agenda, who might call and how many members were necessary to call special meetings of the Joint Use Board; how the Chairperson of the Joint Use Board was going to be selected and shared between the two municipalities, and to develop the necessary budget policies, a fiscal agency agreement, so the Joint Use Board would function more appropriately and would address the various audit findings received concerning the Joint Use Board operations; and the attorneys should share drafts of those documents on a routine basis at the monthly meetings while finishing the

construction of the Regional Wastewater Treatment Plant and those drafts be submitted, first to the Joint Use Board and then to each Governing Body for approval, prior to becoming effective; that way, when the Governing Bodies were looking at the documents they would know that their respective membership on the Joint Use Board reviewed the proposals and found them to be acceptable. Chairman Armstrong seconded and the motion carried with all ayes.

There being no further business to come before the Regional Wastewater Treatment Plant Joint Use Board, Vice-Chairman Alborn adjourned the regular meeting at 11:28 a.m.

MINUTES ARE DRAFT UNTIL APPROVED:

Passed and approved this ____ day of _____, 2010.

APPROVED: _____
Tom Armstrong, Chairman

ATTEST: _____
Bertha Randolph, Deputy Clerk

