

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JANUARY 26, 2009

The Council of the City of Ruidoso Downs met in regular session on January 26, 2009. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Steve Dunigan to lead the Pledge of Allegiance. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Hood
Councilor Holman

Councilor Williams
Councilor Olivo

Carol Virden, City Clerk/Treasurer informed Mayor Armstrong there was a quorum.

Also present:

Carol Virden, City Clerk/Treasurer
Steve Dunigan, Planning & Zoning Director
Jay Smith, Museum Director
Terri Mosley, Finance Director
Alfred Ortiz, DPS Director
Cleatus Richards, Public Works Director
W.T. Martin Jr., City Attorney

APPROVAL OF AGENDA

Mayor Armstrong stated next item on the agenda was approval of the agenda.

Councilor Hood moved to approve the agenda. Seconded by Councilor Williams.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

Mayor Armstrong stated next item on the agenda was approval of the Consent Agenda.

Councilor Hood moved to approve consent agenda. Seconded by Councilor Williams.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF MINUTES OF REGULAR MEETING OF JANUARY 12, 2009.

Motion was made by Councilor Hood and seconded by Councilor Williams to approve the Minutes of the Regular Meeting of January 12, 2009.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF ACCOUNTS PAYABLES

Motion was made by Councilor Hood and seconded by Councilor Williams to approve Accounts Payables.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

APPROVAL OF MONTHLY REPORTS

Motion was made by Councilor Hood and seconded by Councilor Williams to approve Monthly Reports.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

PUBLIC HEARINGS

Mayor Armstrong stated the next item on the agenda was Ordinance No. 2009-02, an Ordinance Repealing Article 7 Flood Hazards 9-7-1 Through 9-7-20 and Enacting New Article 7 Flood Hazards Regulations 9-7-1 Through 9-7-21 and Enacting Article 12 Subdivisions 9-12-1 through 9-12-40 of the City of Ruidoso Downs Code of Ordinances.

Mayor Armstrong opened the Public Hearing and said he would like to hear from Steve Dunigan before opening the discussion.

Steve Dunigan said periodically they do reviews of all of the ordinances and this year's flood brought about the need to look at the flood ordinances already existing. The current flood hazard regulations were pretty adequate but they wanted to bring them up to speed with some of the language.

Cleatus Richards, Public Works Director said they wanted to readopt to clarify that these subdivision codes were available for city development.

Mayor Armstrong asked if there were any persons to speak in opposition?

There were no persons to speak in opposition.

Mayor Armstrong asked if there were any persons here to speak in support of this action?

There were no persons to speak in support.

Mayor Armstrong said he would therefore close the Public Hearing and entertained a motion for the adoption of Ordinance 2009-02.

Councilor Williams moved to adopt Ordinance No. 2009-02, an Ordinance Repealing Article 7 Flood Hazards 9-7-1 through 9-7-20 and Enacting New Article 7 Flood Hazards Regulations 9-7-1 through 9-7-21 and Enacting Article 12 Subdivisions 9-12-1 through 9-12-40 of the City of Ruidoso Downs Code of Ordinances. Seconded by Councilor Olivo.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was Review and Possible Action Sacramento Mountain Emergency Management Group Mutual Assistance agreement.

W.T. Martin Jr., City Attorney said in October 2008 they voted to amend one portion of this MOU. That portion related to language that this MOU related to a 5-year time limit and could be automatically renewed simply by the signature of the fire chief. There was a provision in there that if the city council was not happy with the MOU or wanted to get out of the agreement it could be done with 30 days written notice. The discussion at that time was whether it was good policy to give the department head the ability to renew a contract without city council review. There was also discussion about having a 5-year agreement. At that time the council voted to amend that section of the agreement to provide that renewal had to have city council approval on an annual basis. He said last week he received a call from Dan Bryant of the Village of Ruidoso and that they wanted us to take another look at this and to possibly rescind it because we had made it too cumbersome. W.T. Martin Jr. said he would present it to the city council again.

Councilor Williams asked W.T. Martin Jr. what the “cumbersome” part was? W.T. Martin Jr. said apparently the “cumbersome” part was renewing annually as opposed to the automatic 5-year renewal.

Councilor Hood said he wanted to keep it as is and when it was discussed before the reason was to give the opportunity to review to future council people. He said he didn't want to obligate it to a staff member either.

W.T. Martin Jr., City Attorney said he felt the council needs to guard its duties and to look at and approve contracts. He said he would be very careful about delegating away that even on a short-term basis.

Councilor Holman said if it's not going to hurt anything then it won't hurt to redo it.

Mayor Armstrong asked if there was proposed different wording for this? W.T. Martin Jr. said that was correct.

Carol Virden, City Clerk/Treasurer said the agreement would come back on an annual basis instead of signing it one time and then having it renewed and if there were any changes to the document it would then come back to the council.

Councilor Williams said as the council they make decision for the citizens and have the ability to have those decisions be effective on down the road.

Councilor Hood moved to stand by their previous decision. Seconded by Councilor Williams.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

OTHER BUSINESS (items are for discussion only-no action will be taken)

Mayor Armstrong stated next item on the agenda was Proclamation-W.C. "Dub" Williams Day. He stated that Representative W.C. "Dub" Williams has represented the citizens of Ruidoso downs District 56 in the New Mexico State Legislature for the past 14 years. He stated that:

NOW, THEREFORE, WE DO HEREBY PROCLAIM JANUARY 26, 2009 AS "DUB" WILLIAMS DAY IN RUIDOSO DOWNS AND ASK ALL OF OUR CITIZENS TO HONOR "DUB" FOR HIS COMPASSION, HIS KINDNESS, AND HIS DEDICATION TO THE CITIZENS OF RUIDOSO DOWNS, AND THE STATE OF NEW MEXICO.

Carol Virden, City Clerk/Treasurer said she would like to report that we have received the service agreement along with the check for \$25,000 from the County of Lincoln. She also reported that the service agreement would be presented at the Village of Ruidoso council meeting tomorrow night and was confident that they would also approve the service agreement.

Councilor Holman said he would like to compliment Mickie Compton on getting the transit system going as she said she would and he hears that it is doing quite well.

Mickie Compton said she has some numbers and said she would be happy to give a short report. She said she did send a report out for the month of December and that she was very pleased with the rider ship since they had only been in operation for three weeks. She said their total rider ship was 389. Out of that 45% went to the Village and 46% went to the Downs. She said 9% went to the County and that would include Capitan, Glencoe and the surrounding area. For January as of now they have 426 riders. Of that 32% is the Downs, 58% is the Village, and 10% is the County. She said everyone would get a hard copy when all of the information is input. Mickie said she hasn't received a written verification but the State did call her and did say there is a legislative funding going on right now and if it is passed they will provide the vehicle we requested for this fiscal year of 2009 at 100% and in addition give us two more at 100%. That would increase our fleet immensely. When she gets confirmation on that she will forward the information to the council. They have now provided a corridor from here to Alamogordo and they take about five people a day to the Travel Center to connect with Z-Trans. She said she has received a lot of request from Mescalero and will pursue that as soon as she is able to return to the office atmosphere on a more regular basis. There have been requests for evening transportation especially for the college students and they start getting out at 8:45 to 9:00 p.m. but right now we are only servicing them up to 7:00 p.m.

Councilor Hood thanked her for the good work that she is doing.

Councilor Olivo asked if there were just two vans? Mickie Compton said that was correct.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was discussion and possible action on final list of issues regarding the Joint Use Board and Joint Powers Agreement for presentation to Village of Ruidoso governing body.

W.T. Martin, Jr., City Attorney said about a week and a half ago they had a meeting with the City of Ruidoso Downs and the council of the Village of Ruidoso. It was to discuss and address JUB matters and JUB issues. From that was that there was a general agreement that the JUB was not functioning well and needs to be fixed. The decision was made for each city council to look at what the problems were and how to make possible resolutions. Once that was done it would then be presented to each city council. It would not go through staff at all, just city council to city council communication. Once the exchange takes place there would be a follow-up meeting to negotiate a final resolution to the JUB. Modified within that would be updates to the Joint Powers Agreement as opposed to going to a separate authority. At that last meeting the consensus was the neither of them want the authority approach but rather an amendment to the current Joint Use Agreement.

W.T. Martin, Jr., City Attorney said the consensus of the City of Ruidoso Downs is that the JUB has never established bylaws or rules of conduct. Another consensus is looking again at the make up of the JUB. There are two members from the City of Ruidoso Downs, two members from the Village of Ruidoso, and one member from the County of Lincoln. The suggestion is to keep the two from Ruidoso Downs and the two from Ruidoso and let the board make a decision on whom the fifth would be and it could be anybody and doesn't have to be from Lincoln County. He said the County has no customers on the Wastewater Treatment Plant and therefore the Village of Ruidoso and City of Ruidoso Downs should have the ability to pick the fifth member. The next thing there is a consensus on is ownership of the plant and ought to be owned by the JUB. The issue of percentage does not have a consensus and right now is at 85/15. The next issue is employment and it is safe to say that the consensus is that the people working at the Wastewater Plant should be employed by the JUB and not either one particular city. Currently the staffing is done through Ruidoso and moving them under the JUB could create issues with their benefit package. The next consensus is on budgeting and is currently not being done by the JUB but rather at the Village and they submit it to the City of Ruidoso Downs. He suggested the budgeting really should be done by the JUB and recalls that the DFA would rather see it that way. Another issue that has been acute deals with the Settlement Agreement. The situation has been where the JUB votes to take action on something but it doesn't happen. It goes back to each city council to take action and whether the JUB decides something it is subject to veto. Because of this we have encountered numerous delays. Rates and hookups should remain in each city accordingly. If this went to an authority they would have the ability to set rates. The JUB has had problems with setting meeting dates and then not take place, they get cancelled. They seem to be getting cancelled by the action of one entity as opposed to another entity. Clearly there needs to be monthly meetings established and not be subject to arbitrary cancellation. The last issue is regarding Mescalero. Should Mescalero be made a party to the agreement or not? He said from our viewpoint Mescalero should not be made a party and that we should look to renegotiate with them of the rate it takes.

W.T. Martin, Jr., City Attorney said it gets more detailed but this is what we are going to take to Ruidoso as our suggestion. We are going to have it to them well in advance of February 1st. He said the atmosphere seems right for negotiation.

Councilor Hood moved to authorize W.T. Martin, Jr., City Attorney to make a synopsis and give it to the Village of Ruidoso. Seconded by Councilor Olivo.

Councilor Holman said he still has a problem with Mescalero and if they stay as a customer he would like to see them be a customer of the JUB. As a sovereign nation they might have better access to the Federal Government, which in turn might help us with the amount of dollars coming in.

W.T. Martin Jr., City Attorney said if Mescalero came in as a partner you would be changing percentages and would be losing further percentage of representation of the City of Ruidoso Downs. We're already in a minority position.

Councilor Holman said he wanted to compliment W.T. Martin, Jr. on the role he played at that meeting because he did an excellent job at presenting pretty much what he presented this evening. It was clear and concise and not confrontational.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving Resolution No. 2009-01 Mid-Year Budget Adjustments.

Councilor Williams moved to approve Resolution No. 2009-01 Mid-Year Budget Adjustments. Seconded by Councilor Hood.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving Resolution No. 2009-02 Establishment of City of Ruidoso Downs Municipal Excess Funds Investment Policy.

Carol Virden, City Clerk/Treasurer said the City of Ruidoso Downs has had an Investment Policy for approximately four years. It is currently under Mayor Armstrong and his signature at the bank.

Councilor Hood moved to approve Resolution No. 2009-02 Establishment of City of Ruidoso Downs Municipal Excess Funds Investment Policy. Seconded by Councilor Williams.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was consider approving Personnel Recommendation-Lincoln County Transit-On Call Drivers-Kathryn Carey-Howard Ours-Debbie Cadena.

Carol Virden, City Clerk/Treasurer on each of the candidates we have a rate of \$7.00 but that minimum wage went up to \$7.50 effective January 1, 2009 and therefore would go from \$7.00 to \$7.50.

Mayor Armstrong entertained a motion to approve personnel recommendation-Lincoln County Transit-On Call Drivers-Kathryn Carey-Howard Ours-Debbie Cadena.

Councilor Hood moved to approve personnel recommendation-Lincoln County Transit-On Call Drivers-Kathryn Carey-Howard Ours-Debbie Cadena. Seconded by Councilor Holman.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Mayor's Appointment to LCSWA Recycling Advisory Committee-Gary Williams.

Mayor Armstrong entertained a motion to approve Mayor's Appointment to LCSWA Recycling Advisory Committee-Gary Williams.

Councilor Hood moved to approve Mayor's appointment to LCSWA Recycling Advisory Committee-Gary Williams. Seconded by Councilor Holman.

Councilor Holman said he has issues with the whole concept and not with the candidate. He said that would give Councilor Williams not only a councilor position with about four positions. He would hate to see us get into a position where one person is doing too much and you're going to burn people out. He did not think any city councilor should be on more than three committees. He said this was just a personal opinion. He said even on the Joint Use Board he has a problem with a councilor being on that.

Councilor Olivo asked Mayor Armstrong if he had asked any of our citizens if they would like to take this position? Mayor Armstrong said no and these were names that were given to him that were interested. Councilor Olivo said in the prior administration they had to take one councilor on every committee. He said Gary Williams's works very hard but that some of the citizens are probably very qualified.

Carol Virden, City Clerk/Treasurer said the appointment to the LCSWA Recycling Advisory Committee is not someone that the mayor actually appoints. Mayor Armstrong took the recommendation from Debra Ingle's operational manager to replace Ursula Eckersley who has resigned. Mayor Miller appointed Ursula and that was his choice to sit on the committee. She said Councilor Williams is the alternate to the mayor's appointment as a resident of the City of Ruidoso Downs. She said Councilor Olivo is the actual committee member.

Councilor Olivo asked Councilor Williams if he was also on another program at the Solid Waste? Councilor Williams said his quest to represent the City in various functions is not made to put himself in the position where he is highlighted as a council member as doing this and doing this and doing this. It was never the intention on his part to put the rest of the council at a disadvantage with his ability to do and want to be on some of these committees. He said he is retired and does have the time to attend these meetings and functions at no cost to the City generally. He said he does not want any type of controversy to develop because of that. He said if they are thinking he is pulling too much weight he wants them to know it is his intentions to volunteer and represent them to the best of his ability. He said if this is going to be a concern and if they feel it may burn him out he would withdraw his name. If the mayor wants to converse with Debra and come up with another name he would have no heartburn with this issue.

Councilor Holman said he hoped Councilor Williams didn't think he was questioning his ability. He said he was questioning the mayor's action of putting anybody who was on too many committees.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Nay; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Consider Approving Lincoln County Economic Development 101 Workshop-Tentative Date March 25, 2009 from 9-4 Hubbard Museum of the American West.

Carol Virden, City Clerk/Treasurer said we have been approached by Kathy McCormick to help economic development for Ruidoso Downs, Carrizozo and Ruidoso. She has come and asked if the council would approve the class to present managing an economic development organization, what their strategic planning would be, the research in analyzing our community and its projects, and marketing our community. She said the Economic Development Board has made a list of what they would like to have in the workshop if the council approves this.

Mayor Armstrong entertained a motion to approve.

Councilor Williams moved to approve Lincoln County Economic Development 101 Workshop-Tentative Date March 25, 2009 from 9-4 Hubbard Museum of the American West. Seconded by Councilor Holman.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong stated next item on the agenda was Presentation-Jeff Pinar-Mission Ministry Youth Group-Rehabilitation of Communities.

Jeff Pinar said he has been a missionary in Juarez, Mexico for the past three and a half years. A lot of teams come down and build houses and do different projects in there. With the current state of affairs in Juarez, Mexico a lot of people are afraid to go there. He said his home church is an affluent church in Douglas County in Colorado. They send their 7th graders and have for the past fifteen years to Juarez, Mexico. He said generally their budget is about \$50,000 and they build about four houses and they are there a couple of days. They cancelled on going to Juarez last year and they cancelled going to Juarez this year and they may never go back to Juarez. The team leader contacted him to see if he had any opportunities that they could serve somewhere in the United States. Jeff said he came in and talked to Steve Dunigan and there are about 25 7th graders. They bring resources and money and would probably camp at the church and he has talked with the Baptist Church down the street. Their only concern was if the fire department beat them up about over crowding. He said usually they camp at the church down there and then give an offering to the church. He said he met with the Beautification Committee last week and what they would be doing is picking up brush and tires and trash and trimming up trees and make it look better. They would paint some buildings and put a roof on. He said the City has identified some people that don't meet code and they would like for them to go in and help them. He said the church has some people identified that need help. They would like to come in and make a favorable impact. He said there would be three or four teams and that would be about 150. They would come in April for Arbor Day and the National Cleanup Day on April 25th. He said they have a liability form when they come and do whatever they have to with the City.

Councilor Williams said he wanted to mention that he did present this a little more extensive to the Beautification Committee. He said for us we are enthusiastic that the group would come here to clean up the area but also to help people with their homes. It's all about the community as a whole. There would be no cost to the City to support this.

Councilor Holman asked if it would mostly be on private property? Jeff Pinar said they would get permission from the owner and would specify what day and put a rood on here or there or clean up the yard. Carol Virden, City Clerk/Treasurer said there would be no liability to the City. Councilor Hood said the Baptist Church was trying to become more active in helping the community. He said he was the manager of "Meals on Wheels" and they have come to him several times to ask if there are people in need of their help. He said it would be a great deal for Ruidoso Downs.

PUBLIC INPUT (All concerns to be addressed only to the Governing Body as a whole with a 3-minute time limit)

There was no Public Input.

EXECUTIVE SESSION

Discussion of all threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant: Real Property and Water Rights Pursuant to Open Meetings Act Section 10-15-1 (H) 8.

Mayor Armstrong entertained a motion to go into Executive Session for the discussion of all threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant: Real Property and Water rights Pursuant to Open Meetings Act Section 10-15-1 (H) 8.

Councilor Williams moved to go into Executive Session for the discussion of all threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant: Real Property and Water rights Pursuant to Open Meetings Act Section 10-15-1 (H) 8. Seconded by Councilor Hood.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong closed the regular meeting at 6:54 p.m. and invited W.T. Martin Jr., City Attorney, Carol Virden, City Clerk/Treasurer, and Cleatus Richards, Public Works Director and called for a five minute recess.

Mayor Armstrong entertained a motion to go back into open session.

Councilor Hood moved to go back into open session. Seconded by Councilor Olivo.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

Mayor Armstrong called the regular meeting back to order at 7:45 p.m. and asked that a member of the City Council attest to the fact that the only items discussed in Executive Session were that of Discussion of threatened and/or Pending Litigation Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant: Water Rights Pursuant to Open Meetings Act Section 10-15-1 (H) 8 and no action was taken.

Councilor Williams attested to the fact that the only items discussed in Executive Session were that of Discussion of threatened and/or Pending Litigation Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant: Water Rights Pursuant to Open Meetings Act Section 10-15-1 (H) 8 and no action was taken.

Mayor Armstrong stated next item on the agenda was Consider possible action Pursuant to Open Meetings Act: Section 10-15-1 Subparagraph (H) 8 Real Property and Water Rights.

Councilor Hood moved to authorize staff to start process of appraisal for purchase of land. Seconded by Councilor Holman.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye, Councilor Olivo, Aye. Motion carried.

ADJOURNMENT

There being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn at 7:47 p.m. Seconded by Councilor Olivo.

All were in favor and motion passed.

Tom E. Armstrong, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer