

MINUTES OF SPECIAL MEETING OF THE CITY COUNCIL
CITY OF RUIDOSO DOWNS
MARCH 30, 2007

The Council of the City of Ruidoso Downs met in special session on March 30, 2007. Mayor Miller called the meeting to order at 5:30 p.m. and asked Councilor Hood to lead the Pledge of Allegiance. Mayor Miller asked John Waters, City Manager to take roll call. The following were present:

Councilor Hood
Councilor Holman

Councilor Miller
Councilor Garrett

John Waters, City Manager informed Mayor Miller there was a quorum.

Also present:

John Waters, City Manager
Carol Virden, City Clerk/Treasurer

Others present:

William H. Brogan, Attorney
W.T. Martin Jr., P.A.
Ken Dugan, Attorney

APPROVAL OF AGENDA

Mayor Miller entertained a motion to approve the Agenda.

Councilor Hood moved to approve the Agenda. Seconded by Councilor Garrett. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller stated next item on the Agenda was Discuss qualifications of Firm A-William H. Brogan, Attorney at Law.

John Waters stated the Council had before them a written summary of the RFP for Legal Professional Services. There were four firms that submitted bids. They were Richard Hawthorne, P.A.; H. John Underwood, LTD; W.T. Martin Jr. P.A. d/b/a Martin Law Firm; and William H. Brogan. The top two candidates were the W.T. Martin Jr. P.A. d/b/a Martin Law Firm and William H. Brogan. He said by request of the Council the top two candidates were invited to meet Council members and the Mayor to answer questions. John Waters said the RFP listed seven items as criteria. Those items were:

- 1) Specific knowledge of the City of Ruidoso Downs

- 2) Experience in Employment Law
- 3) Ability to perform contracted services without conflict of interest
- 4) Ability to meet specified office hours and scheduled meetings with City Manager and governing body
- 5) Specific experience in local government law
- 6) General/Special qualifications and reputation as attorney
- 7) Absence of litigation or administrative proceedings represented against City of Ruidoso Downs in last 6 years

John Waters said he was advised by the Municipal League attorney that questions could not be asked regarding current situations between Ruidoso and Ruidoso Downs.

Carol Virden, City Clerk/Treasurer stated the ratings were not for public knowledge until the RFP for Legal Professional Services was awarded.

Councilor Hood asked Mr. Brogan if his office was in Alamogordo. He replied yes and that he was a full time employee of the City of Alamogordo. Councilor Hood asked if he had any conflict of interest with the City of Alamogordo and the City of Ruidoso Downs or the Village of Ruidoso. He replied he did not. Councilor Hood asked how accessible he would be should a crisis come up. He replied his contract with the City of Alamogordo required that he not take on any new clients. He said he would resign from the City of Alamogordo and move back to Ruidoso if he was awarded the contract.

Councilor Miller asked Mr. Brogan if the City of Ruidoso Downs would be his main client. He replied yes and that he would have a minimal number of clients. In order to get professional liability insurance he had to have more than one client. Councilor Miller asked how long he had been employed by the City of Alamogordo. He replied almost 1 year. Councilor Miller asked what positions he held prior to that. He replied he was in the Ruidoso area in sole practice for 5 years and prior to that in Santa Fe in sole practice and as Assistant District Attorney. He also worked for the Highway Department as attorney for the Construction Industries Division. For a short while he was Director of the Manufactured Housing Division. Prior to that he was in Albuquerque for 2 years. Councilor Miller asked if he had done a fill-in for Ruidoso. He replied he had worked approximately 6 months as Assistant Village Attorney while H. John Underwood was away.

Councilor Garrett asked Mr. Brogan why he would like to be the attorney for the City of Ruidoso Downs and what his driving force was to do municipal law for the City of Ruidoso Downs. He replied Ruidoso Downs was a growing community and looked forward to the experience of working for the City. He said he had a great deal of experience in government law.

Councilor Holman asked Mr. Brogan what he thought would be most challenging in working for a municipality. He replied the care of a whole municipality was a heavy weight in comparison to handling individual cases but was a challenge he looked forward to.

Councilor Garrett asked Mr. Brogan if he would be truly committed to municipal law. Mr. Brogan replied he realized it was the core of his being and found it very interesting. He said he had 19 years experience in dealing with municipalities.

Mayor Miller thanked Mr. Brogan for coming to the meeting. Mr. Brogan said he planned to stay until after Executive Session. John Waters said he would like to explain the procedure. He said the Council would go into a separate room and that he was welcome to stay to hear the final outcome after the Council visited with both attorneys. He said he was not sure how long the Council would deliberate on the issue but the offer to stay was open to both attorneys. John Waters said there would be an open session afterward in the event a decision was made. Mr. Brogan said he was to be in Albuquerque and with their permission asked if he could leave. Mayor Miller and the Council members thanked him for his time and efforts.

Mayor Miller stated next item on the Agenda was Discuss qualifications of Firm B-Law Offices of W.T. Martin, Jr. P.A. d/b/a Martin Law Firm.

Mr. Martin introduced himself as W.T. Martin Jr. and said he goes by the name Tom. He introduced Ken Dugan as another attorney from his office. He said Mr. Dugan specialized in litigation and was his expertise. Mr. Martin said he felt it would be helpful for both of them to be at the meeting.

Councilor Hood said he understood their office was in Carlsbad and asked how accessible they would be for counsel by phone. Mr. Martin said they had a lot of clientele not in Carlsbad and had used telephone, fax, and email as sources for communication. He said documents could be exchanged that way also. He said his firm could provide good service because there were three attorneys within his firm that would be accessible. Those were himself, Ken Dugan, and Lane Martin who was his son. Mr. Martin said in the past it would take 3 hours to get to Ruidoso Downs from Carlsbad but with better roads it now only takes 2 hours.

Councilor Miller asked if he would be available for all of the Council meetings. He replied he would be but that on occasion another associate from the firm would stand in for him. He said each associate would be kept current on issues for that purpose. He said his goal was to attend all meetings that were necessary but anticipated there would be some meetings that did not require an attorney present or they could be present via telephone conference call.

Councilor Hood said he noticed Mr. Martin attended West Texas State University. Councilor Hood said he attended the same college. Mr. Martin said his family moved to Tularosa in 1947 and he was familiar with this area.

Councilor Miller asked if Mr. Martin practiced in local government in Carlsbad. Mr. Martin said he had been in practice 36 years. He said he and Mr. Dugan were licensed in Texas and New Mexico and his son only in New Mexico. Mr. Martin said he had been doing Labor and Employment Law since the early 1970's. In the early 1970's in Carlsbad there were many cases that involved union problems. He said he had worked private sector law mainly in management. Currently they were involved with public sector union issues with some local governments. He had experience in collective bargaining issues, grievances, grievance arbitration, and Civil Service discharges. While working in Employment law he helped private employers write Employee Handbooks, Employee Procedures, and drafted Employment Ordinances. Mr. Martin said he was very involved in Water Law and a big part of his business for the past 15 years dealt with Water Rights issues. He said he had not worked full time for a municipality.

Councilor Hood asked if Mr. Martin had experience dealing with Police Departments. He replied yes and that he represented the Police Department for the City of Carlsbad and had for many years. He said there were recruiting and retention problems in that area and pay rates were a factor.

Councilor Garrett asked Mr. Martin if he had any conflict of interest issues. He replied no.

Councilor Miller asked Mr. Martin if he had an occurrence of a Joint Use Board. He replied no.

Councilor Holman said one of the references for Mr. Martin provided stated he was reasonable but firm and never afraid to take a strong position for the benefit of the best interest of his client. Councilor Holman asked Mr. Martin if he agreed with those statements. Mr. Martin said he believed his client was right he would take a firm standing but would try to come to an understanding and compromise if he could.

Councilor Miller asked Mr. Martin if he intended to open an office in Ruidoso. He said he owned a home in Ruidoso that had a home office. His long-term goal would be to have a separate office and telephone line away from the home.

Councilor Garrett asked Mr. Dugan what his expertise was. He replied it was exclusively in litigation and that was what he had practiced for 15 years. He said he may not know the answer to every question but would find an answer. He said his philosophy, unlike Mr. Martin, was that he enjoyed the battle and expected to win. He stated no one person could be a litigator and a negotiator.

Mayor Miller stated next item on the Agenda was Executive Session: Discussion of contents of RFP #07-03 Legal Professional Services pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 6 Certain Purchases.

Mayor Miller entertained a motion to go into Executive Session for Discussion of contents of RFP #07-03 Legal Professional Services pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 6 Certain Purchases.

Councilor Hood moved to go into Executive Session for Discussion of contents of RFP #07-03 Legal Professional Services pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 6 Certain Purchases. Seconded by Councilor Garrett. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller closed the special meeting at 6:18 p.m. and invited John Waters, City Manager and Carol Virden, City Clerk/Treasurer into Executive Session after a five minute recess.

Mayor Miller entertained a motion to go back into regular session.

Councilor Hood made a motion to go back into regular session. Seconded by Councilor Garret. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

Mayor Miller called the special meeting back to order at 6:40 p.m.

Councilor Garrett attested to the fact that the only items discussed in Executive Session were that of Certain Purchases pursuant to Open Meetings Act: Section 10-15-1 Subparagraph (H) 6 Certain Purchases and no action was taken.

Mayor Miller entertained a motion to approve awarding RFP #07-03 Legal Professional Services.

Councilor Hood moved to approve awarding RFP #07-03 Legal Professional Services to Martin Law Firm. Seconded by Councilor Holman. Roll Call Votes: Councilor Hood, Aye; Councilor Miller, Aye; Councilor Holman, Aye; Councilor Garrett, Aye. Motion carried.

ADJOURNMENT

Mayor Miller entertained a motion to adjourn. Councilor Garrett moved to adjourn at 6:42 p.m. Motion seconded by Councilor Hood. Motion passed unanimously.

Bob A. Miller, Mayor

ATTEST:

