

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
APRIL 28, 2008

The Council of the City of Ruidoso Downs met in regular session on April 28, 2008. 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 & Personnel Services Director
Jay Smith, Museum Director
Alfred Ortiz, DPS Director
W.T. Martin Jr., City Attorney

APPROVAL OF AGENDA

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

Councilor Olivo moved to approve agenda. Seconded by Councilor Holman. Roll Call Votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

APPROVAL OF CONSENT AGENDA

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

Mayor Armstrong entertained a motion to approve the Consent Agenda.

Councilor Hood moved to approve the Consent Agenda. Seconded by Councilor Holman.

Councilor Williams said he had a question on Accounts Payables. He asked about an item on page one, Finance/Administration Travel Per Diem, lodging and meals, someone had gone to El Paso and he wanted to know which individual had gone there. Carol Virden, City Clerk/Treasurer said that was for Terri Mosley to attend mandatory training for the new Compass system which used to be State National Bank. He said he also had a question on page six, Street Improvement expenditure for the replacement of Parker Bridge. The payment he saw was for the design phase and asked if that phase was completed and if they were moving on to another phase to get this project going? Carol Virden, City Clerk/Treasurer said that was for the preliminary design and

that it had been completed. Councilor Williams said, "so, that takes care of that phase" and then asked what the next process was? Carol Virden, City Clerk/Treasurer said they will put a bidding contract with specifications out for bid.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 14, 2008.

Motion was made by Councilor Hood and seconded by Councilor Holman to approve the Minutes of the Regular Meeting of April 14, 2008. 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 Holman to approve Accounts Payables. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

MONTHLY REPORTS

Motion was made by Councilor Hood and seconded by Councilor Holman to approve Monthly Reports. 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 Consider Restructuring Position of City Clerk to City Clerk/Administrator with salary increase.

Mayor Armstrong entertained a motion to approve Restructuring Position of City Clerk to City Clerk/Administrator with salary increase.

Councilor Olivo moved to approve Restructuring Position of City Clerk to City Clerk/Administrator with salary increase. Seconded by Councilor Holman.

Councilor Williams asked if a City this size requires a City Administrator and a City Manager? Mayor Armstrong said he did not think so because the job description is covered in this. Councilor Williams said, "so, one or the other, we don't need both?" Mayor Armstrong said we only need the Administrator. Councilor Williams said he had a question about that. He said since our release of obligation for our former City Manager it seemed to him we had a position open for City Manager. With that being open he didn't see a reason for having to pursue this issue when we have that to take care of. If that position is open and funded through the rest of the year it means the City should be out there researching, getting the personnel, people of the City out there getting applications to fill that position. Mayor Armstrong said he did not believe that position is needed for a full-time person. Councilor Williams said the fact is whether or not it is needed it is funded through the end of the year which means that position is open to be filled. He asked with that in mind why would we want to consider restructuring another position in the Admin-City Clerk/Administration, when we have a position that we need to fill that is already there? Mayor Armstrong said because he did not feel that we really need a manager's position later on. Councilor Williams said he was not trying to be difficult but he needed to know the reason. He

said we have a position that is open sir, the City Manager position, it either has to be filled or the Council has to amend the ordinance that provided us with that City Manager position. Mayor Armstrong said we have no ordinance for a manager, we only have one for an administrator and that is what he was filling. Councilor Williams said at the September 2006 meeting there was discussion about having Mr. Waters position changed from administrator to manager and he believed the Council approved that amendment to the ordinance. He said that was why Mr. Waters went from City Administrator to City Manager. With that in mind, since he is no longer in that position and that position is vacant, we have an obligation as a City to find a replacement for that position. He said until that amendment is changed by the City Council we have an obligation to the citizens of the community to fill that position. Mayor Armstrong said he believes he will fill that position through the Clerk/Administrator. He said all of the job descriptions will be covered under that. Councilor Williams said that was not the question sir. The question is we have a position available, the City Manager's position. Unless the Council agrees to have an amendment to the ordinance to eliminate the City Manager's position he could not see filling the administrator position when we have a manager's open. He asked if that was not right, was he just making this up? He asked Councilor Holman to help him with this. Councilor Holman said he would by asking their attorney to address this. He said he does see both sides of it but he was not an attorney and maybe he could enlighten us on this. He said his first question to the attorney would be if the state statutes that allow for at-will employees for their names not to be brought up in the organizational meeting, whether or not that eliminates that position or not?

W.T. Martin, Jr. said if you have a position that is specifically designated and it is an at-will position and you simply don't fill with that individual it doesn't automatically do away with that particular position. The question that was here is in September of 2006 before he was on board, the City Manager position was passed by Council and minutes reflect the designation of Mr. Waters into a City Manager position. There has never been any other action that he was aware of rescinding any manager position per se. As it stands now you have by motion and minutes the creation back in 2006 of this position. One of the things to look at here is ultimately which way you want go. He said you certainly do need to address exactly what you're doing with that position you've created and has been vacated at the present time by a non-filling. He said he hoped that answered his question because he was on at that time and Mr. Hood was on at that time. They did by motion create that designation. Councilor Hood said he remembered that. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer if she had anything to add? Councilor Holman said he would also like to ask the attorney, there are about four or five legal forms of government that they could choose. There is mayor/council, mayor/administrator/council, mayor/manager/council, and home-rule so he said we can pick any one of those. Councilor Hood said we would have to pass a resolution for whichever form we are going to. W.T. Martin, Jr. said you have to meet certain criteria and statutes to determine whether you are a certain type of municipality. With home-rule you have to go through certain steps and meet certain requirements and we're clearly not in the home-rule capacity here. As he understood the question being asked deals with a position that was created by the Council and it's simply now been dated. The question is, and it's a Council decision, do we stay with that created position, if so, who do you designate into that position or do you do away with that position and create some different designation? He said you certainly have all those capabilities on the table but his answer was as of today with Mr. Waters not being here and there being no Council action, based upon prior Council action, you do have at least the City Manager position in place but not filled. It would be up to this Council to decide what it wants to do with that particular issue.

Councilor Holman said as far as the question Councilor Williams had we need to make a special provision and time for this or his question would be if they went with the motion they have now does that not then change that position as of tonight? Would that eliminate what had been done before and the status of a different system of which all are legal according to state statutes? W.T. Martin, Jr. said if you're going to go down that route the motion that is currently presented and has been seconded is not specific enough to address that. He said one would have to be much more specific in what you are doing. He said he did not believe you can do it simply by implication and thought that was where we are with that. He said to be safe you would have to be much more specific. Councilor Holman asked if that would have to be on an agenda for a separate time or since that is related to what we are doing could it be addressed at this time? Councilor Hood said it was not on our agenda. W.T. Martin, Jr. said his answer was that as specific as they have tried to be with these agendas, the doing away with that particular position is not on the agenda. While he recognized it may create delay, the safe and conservative route is get it on the agenda and address that issue and then go to the next issue.

Councilor Williams asked W.T. Martin, Jr. that if a motion was made to say that the position needed to be filled and that the City needs to go forward with that it could be presented tonight in lieu of the other motion could be eliminated on the vote? W.T. Martin, Jr. said he was going to be equally conservative that direction. That was not on the agenda either. What is on the agenda was to consider filling a position of City Clerk/Administrator and that's all you have. He said if you're going to address that in the context of the questions that have been presented to him he would continue to take a very conservative approach to this to be safe. You need to have it on the agenda and be more specific if you're going to consider these things. Councilor Williams said this was only a question about a position being open, a position funded, and a position that needed to be filled. In lieu of what was being asked tonight to do we should follow through on having that position filled. It has to be done if we are going to continue to do this process and delaying it and delaying it. We're falling behind, we need to get the City moving. He said if it takes filling that position then that's what we need to do. If we're not going to be able to make a motion tonight, and he would make a motion to table this and you come up with a resolution.

Carol Virden, City Clerk/Treasurer said there was a motion and a second. She said you need to take roll call on that. Councilor Holman said our attorney has just advised us that we shouldn't pursue this so he thought we do need to table this. Carol Virden said we could do this. She said Councilor Olivo can amend his motion to request the postponement of this item 9A if he would like. Councilor Olivo said no, we have to go forward, budget time is almost due and we have to fill this position. Councilor Williams said, "you are right, the City Manager position does need to be filled." Councilor Olivo said we do not have to have a City Manager and told Councilor Williams to look at the bylaws. We can have a City Administrator which is almost the same as a City Manager but not the powers of a City Manager. Councilor Williams said the manager's position is funded, that means it's there.

Councilor Holman said he is hearing our attorney saying not to do either and Councilor Hood said was what he heard too. Councilor Holman said we should table that because either way is not a legal process. Mayor Armstrong asked if that made it illegal if we vote on it tonight? W.T. Martin, Jr. said what you're ultimately doing here is looking at doing away with a position that was created by means of vote by Council in September 2006 from what he understands. That position is there and Mr. Waters was designated into that position. Just because Mr. Waters is gone doesn't mean

the position itself as a designation is gone. He said he recognizes there is delay coming with this and that we do need to move but he doesn't want this City Council in a position where it is doing some things that are not on the agenda and some things not specific enough on the agenda. If we're going to go through a process of doing away with a City Manager designation position and go to another position it needs to be more specific when presented on the agenda. Conversely, if you were going the route of what Councilor Williams wanted that is equally not on the agenda today. He said the problem he is having with this is the way the City Council is looking at and discussing at the rhythm and a more specific agenda is needed. He said they need to look at an agenda that does away with the created position of City Manager and creating a different position or conversely if Mr. Williams wants his considered put that on the agenda the same way. He recognized that he was taking a conservative approach but better to take a safe and conservative approach than to go head-long and find out we haven't quite procedurally done this with full notice, full discussion, and a vote.

Councilor Holman said that has now been explained twice by the City Attorney and he thought it was an accurate assessment. He said he did not feel comfortable voting with either of those because he agreed with the attorney. One is not on the agenda and the other has not been changed. He said he did not want to be forced into a vote on either one of them.

Councilor Olivo said he would amend his motion to table the item for the next meeting. 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 Restructuring Position of Procurement/Asset Control Manager to Finance/Procurement/Asset Control Director with salary increase.

Mayor Armstrong entertained a motion to approve Restructuring Position of Procurement/Asset Control Manager to Finance/Procurement/Asset Control Director with salary increase.

Councilor Hood said since they tabled the other one he would like to move to table Restructuring Position of Procurement/Asset Control Manager to Finance/Procurement/Asset Control Director with salary increase until they get this worked out. Seconded by Councilor Williams. Councilor Olivo asked why? Councilor Hood said we don't need this position if we're going to still be in limbo. Councilor Holman said the problem is they have already created a position that is the other half of this. What that equals to is we're in a mess. Councilor Hood said we are in a mess. Councilor Holman said until the Clerk/Administrator position is settled we are now in a situation where we have already okayed the position to compliment the Clerk/Administrator. Now we're loading on something that has just been taken. He said he didn't know the answer to that.

W.T. Martin, Jr. said it seems to him the way this restructuring is being put together and proposed you've really need to deal with these packages. He said he agreed with Councilor Holman that they really are in package problem here. You almost need to know what you're going to do with the Clerk/Administrator position before you finally designate what you're going to do with the second position. He said it is not so much a legal question as it is a practical question. If you table item 9A you really don't have a choice but to table 9B and then come back with your agenda with language the way everyone wants issues to be considered.

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

OTHER BUSINESS

Mayor Armstrong stated next item on the agenda was Other Business and invited Sebrina Lundquist to the podium.

Sebrina Lundquist of the Beautification Committee said they had the Great American Cleanup this weekend at the All American Park. She said after the morning rally they concentrated their efforts along Highway 70. There were 37 registered volunteers and collected 118 bags of trash and a lot of cardboard. Local businesses donated gifts and donations from Ruidoso and Alamogordo which was greatly appreciated. There was an energy breakfast and foods donated by Wal-Mart, Lawrence Brothers, and Thriftway. She said Zia Natural Gas donated Subway sandwiches for lunch. She thanked everyone who came to help with the cleanup. There was also a coloring contest and they had an assembly at Nob Hill School. She said they were really excited about it and that Mr. Williams also participated in it and the kids thought he was quite funny. She said Thursday around 12:30 they were going to have a special assembly to give the awards for the winners of the Coloring Contest with prizes and ribbons and said everyone was invited to come. Councilor Williams said he would like to thank Sebrina for what she did over the weekend as he could not be there for the cleanup. He also thanked the other members of the Beautification Committee for organizing the Coloring Contest to let the kids who live in Ruidoso Downs that attend that school to experience a little civic pride from the Downs. He said there is always Ruidoso jammed down their throats and this was an opportunity to give them a little civic pride and he said he thought they responded well.

Mayor Armstrong stated next item on the agenda was Employee of the Quarter-Public Works Department-Sтивен Sanchez. He said Steve could not be here tonight because his wife is ill. Steve is our mechanic and a very good employee in a lot of ways. He never complains, he sees that the equipment is always up and running. His efforts are appreciate. Mayor Armstrong showed the plaque and said it is keep in the hallway with the quarter and a picture of him would be on it. He asked that anyone who sees him to congratulate him for his hard work. There was a round of applause.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Consider Approving Destruction of Public Records-DPS.

Chief Ortiz said this was to destroy approximately thirty boxes of records and other documents that has been in storage for quite some time and came in line with state statutes for destruction of governmental records. He asked for consideration for the destruction.

Mayor Armstrong entertained a motion to approve Destruction of Public Records-DPS.

Councilor Hood moved to approve Destruction of Public Records-DPS. Seconded by Councilor Williams. Councilor Williams asked Chief Ortiz how these records are destroyed. Chief Ortiz said they contract with a company that comes to the site and shreds these documents. He said they would be there to supervise the destruction.

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 Planning and Zoning Commissions Recommendation to rescind portion of Chapter 6, Titled "Morals/Conduct Article 6 General Nuisances Section 2 Nuisances Declared (f) Vegetation Management by Ordinance.

Mayor Armstrong entertained a motion to approve Planning and Zoning Commissions Recommendation to rescind portion of Chapter 6, Titled "Morals/Conduct Article 6 General Nuisances Section 2 Nuisances Declared (f) Vegetation Management by Ordinance.

Councilor Williams moved to start the process for Public Hearing on rescinding a portion of Chapter 6, Titled "Morals/Conduct Article 6 General Nuisance Section 2 Nuisances Declared (f) Vegetation Management by Ordinance. Seconded by Councilor Hood.

Councilor Williams asked if the people in the audience understood what this consisted of?

Mayor Armstrong asked Steve Dunigan, Planning & Personnel Services Director to explain this ordinance and why we wanted this rescinded.

Steve Dunigan said in an effort to do everything we possibly could to find ways to clean up the town they did a review of the Nuisance Articles a while back. One of the areas in town they identified as a real problem was the frontages, easements, and alleyways. In all these locations and probably in the past were maintained by the City in some degree and they thought with the help of the citizens along with the City's efforts, they added some language to the Nuisance Ordinance. Basically they asked for property owners to take care their property out to the street, any other alleys, any other right-of-ways and they did this for several reasons. Some of these are on very steep banks and some have been done in the past by the City. One of the things that drove their decision to add this was the lack of payroll to put together a crew to do a uniform job instead of hit and miss. He said after a review of over a year now the City may be in a position to want to help more with these types of cleanup areas. We still want to ask each and every citizen to do as much as they can. He said they are asking to rescind a portion that they had added and in a spirit of cooperation the City is going to pick up and try to help out wherever they possibly can. He said we still face a payroll issue, there is never enough bodies to do everything we want and together maybe we can eliminate something he felt has been somewhat of a resistance and work together more.

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 Discussion of Purchasing Playground Equipment-All American Park.

Councilor Williams said he brought this up and gave the information to the Parks and Rec director, Mr. Sanchez. He said what he was looking for was possibly upgrading the playground equipment we have out there. More so for safety reasons and he said he has seen other cities and it's shown that their accident rates of children playing in the parks had increased with they type of equipment that they purchased for the kids. He said it is important that we watch out for our kids in the city or the kids that may stop by through our city and use our facilities. We want to prevent any type of situation where the city would have to take any type of action. He said hopefully it will be discussed further when budget time comes up and we can find some way to get it done. It will be colorful and add some color to the park to stimulate the imagination of the kids. He said it would be a great addition to our city.

Mayor Armstrong stated next item on the agenda was Consider Rejecting Bid No. 08-005 Purchase and Installation of Awning at Hubbard Museum of the American West.

Mayor Armstrong entertained a motion to approve Rejecting Bid No. 08-005 Purchase and Installation of Awning at Hubbard Museum of the American West.

Councilor Williams moved to approve Rejecting Bid No. 08-005 Purchase and Installation of Awning at Hubbard Museum of the American West. Seconded by Councilor Hood.

Jay Smith, Museum Director said during the weekend of Thanksgiving of 2007 they had a big windstorm, which damaged the entry awning/canopy at the Hubbard Museum. He said they brought out insurance officials to look at the damage and it was caused by the weather. They needed to establish a cost at that time so they brought in a couple of contractors to give them some idea of what the replacement cost might be. He said the trouble was the replacement cost exceeded \$10,000.00 and that creates the necessity of finding a bid and going with an Invitation to Bid rather than just using the insurance adjustment check or the replacement cost from those contractors. When they went out for bid the difficulty as you can imagine can be if some of the equipment is still usable, some of it is obsolete. They had a very difficult time putting together the exact nature of what they wanted to have happen. The key issue was partially a mistake on his part in the bid specs. He said he marked down two 20 x 60 foot sections of canvas awning and indeed they needed two 20 x 30 foot sections of canvas awning. The low bid turned out to be \$20,000.00 more than they had anticipated so the recommendation is to adjust the numbers, discuss it with the contractor and put it out for bid once again with the correct specifications. To complicate the matter one degree further is that the contractor said the best way to replace the canvas awning/canopy is to replace it with one 20 x 60 foot section rather than two 20 x 30 foot sections. The bid specs need to be rewritten to allow the potential contractor to do either one of those forms. He said he believed we could get this done before the end of the fiscal year.

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 Destruction/Disposal of Unusable Public Property.

Mayor Armstrong entertained a motion to approve Destruction/Disposal of Unusable Public Property.

Councilor Williams moved to approve Destruction/Disposal of Unusable Public Property. Seconded by Councilor. 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 Discussion and Consider Approving Emergency Reinstatement of Part-Time Court Clerk at Hourly Rate of \$10.00 per hour.

Councilor Williams asked where that was? Carol Virden, City Clerk/Treasurer said he should have gotten a new agenda in his box. He said he had it.

Harrold Mansell, Municipal Judge said he didn't know how much he could talk about her medical situation but the current court clerk will be having knee surgery. He said they have no one trained to do her work while she is recuperating from the surgery. It is going to probably be about six months to be safe for the surgery. This is asking that while she is here to train someone on Caselle and that there is no one in the area trained on Caselle at this time. He said it is a hard program to learn and if they have to bring someone in to teach them the program is cost about \$3,000.00 before. Carol Virden, City Clerk/Treasurer said it was a little bit more than \$3,000.00. Judge Mansell said they would guarantee a part-time person twenty hours per week, they would work every Friday, and there would be no more than forty hours per week. During the learning time of this program they would work forty hours per week until they were able to enter the citations. He said the Chief could tell you the citations have tripled in the last two to three months. Chief Ortiz said they have had an increase of citations in municipal court and magistrate court, he didn't know if it was by three times but they had increased slightly.

Councilor Holman said since the Judicial Department is unique in that it is separate from the city government by necessity so that the court can be fair and impartial, our municipal judge as he recalled has total authority to hire or dismiss personnel under his jurisdiction. He asked if we need to approve that or does he have the jurisdiction and do we only need to be concerned with the financing of the personnel? He said he wasn't too sure that we need to approve, he thought the judge could just do this. He said he would like to ask the city attorney this question.

W.T. Martin, Jr. asked Judge Mansell if he was treating the Municipal Court as a separate branch of government and were operating on the basis of being under a separate branch of government to have the authority to hire and fire? Judge Mansell said that was correct. W.T. Martin, Jr. said if that was the case his next question was if he was simply asking the City Council to authorize the budget expenditure for this person that they want to hire? Judge Mansell said yes. W.T. Martin, Jr. said, "So, you're not asking this Council to approve the actual hiring of that position?" Judge Mansell said that was correct and it was only courtesy that he had come before the Council. Councilor Holman said as he thought before that they were only involved in the financing for what they were asking and that the judge had the authority to hire. Councilor Hood asked if they had an estimated amount of how much this was going to be if it was going to be for six months? Carol Virden, City Clerk/Treasurer said no. Councilor Hood said he thought they would have an estimated amount. Councilor Olivo said a while ago they said she was going to have knee surgery.

Judge Mansell said he could not discuss her medical record with anybody. Councilor Holman said this is why we are in a dilemma with the form of government. The judge is before us for a part-time Court Clerk which if you don't have one and you're in the need, but the thing is the way we've been back and forth even establishing the form of government we're going to have it makes it difficult to budget what he's asking for and know where we're coming from. One way or another we've got to get on with the form of government we're going to have. Right now we're dead in the water and doing nothing and this situation right here with the Municipal Judge needs something and we can't budget it at this time because we don't have a manager or administrator to get on with this. It's hard to ask people that have been doing other jobs to step up and do things extra. Those people that are already on-board can say, "Hey, I'm not going to do it." He said we've been fortunate that we have had people step up and done things outside of their job description.

Councilor Williams said he agrees with Councilor Holman but said he hoped he wasn't saying that the Council wasn't partly responsible for that problem. He said it is not the Council that is responsible for this delay. He said he firmly believes it is not their fault for what is happening here. He thanked the judge for giving them the opportunity to listen to him.

Mayor Armstrong entertained a motion to approve Emergency Reinstatement of Part-Time Court Clerk at Hourly Rate of \$10.00 per hour.

Councilor Williams asked if they have to because it is his prerogative? Judge Mansell said he was asking for the budget. Councilor Williams said he didn't know if they could do that. Councilor Holman said his question would be to ask Carol Virden, if in her opinion, and it might be outside of her realm of responsibility at this time, if we have this available in the budget? Did she have the knowledge to get it so we can vote on it for the judge tonight or not? Carol Virden said the City of Ruidoso Downs budget does not have a position for a part-time Court Clerk. What the judge needs to do is come up with hours for the part-time Court Clerk and request the City Council make the budget adjustment within the 2007-2008 budget. If they would provide the hours she could figure out the rest. This is a newly created position and that would be the only way to take care of it.

Mayor Armstrong entertained a motion to approve Emergency Reinstatement of Part-Time Court Clerk at Hourly Rate of \$10.00 per hour.

Councilor Williams moved to table Emergency Reinstatement of Part-Time Court Clerk at Hourly Rate of \$10.00 per hour. Seconded by Councilor Hood. Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

PUBLIC INPUT

Mayor Armstrong asked if there was any public input?

Judy Miller said she was listening to the discussion about the city administrator/manager and that she was on the board at that time. She said if she remembers right the village administrator position was the same as the village manager. She said they never had a job description for a village manager that she ever saw. She said she called the Municipal League at the time to ask what the difference was. There was a higher rate of pay and change everything in the Personnel Policy Manual. She said when she called the Municipal League it was the same position, you can

call it whatever you want. She said just like when she was on the board it can be councilor or trustee and village administrator/village manager is exactly the same thing. In fact, when John decided with his pay raise that he wanted to be city manager we never had a job description for city manager and that she still has never seen a job description for city manager. She said as far as she's concerned if you don't have a job description there's no position. It is still in the ordinance for city administrator from years back before we hired John and whatever happened to that ordinance? Was it ever changed to city manager? She said it wasn't, we still have a position for village administrator, go back and look.

Councilor Williams said to Judy Miller that he did have two position descriptions, one of city manager. The city manager was revised in October 2006. The city administrator/manager was revised in 2002. So, he said this one being the most current would be what we are working with. Judy Miller asked if there was a job description there? Councilor Williams said she was right about them being identical, they were identical to the administrator. He said this one was revised in 2006, which is the most current one. Judy Miller said they could be called either one and Councilor Williams said we have to go with the one we have right now and the job description.

Joyce Gustafson said she realizes there are those in our community that feel our city was not broken and is in no need of repair. She said she was among the 184 voters that elected our new mayor to bring us positive change and that he was trying to do just that. She said she would like to express her appreciation to those that are working diligently with him to give us all a better place to live and employees a much-needed improved work environment. She said she would also like to ask the mayor, apparently there is a lack of communication, from what she was hearing tonight, between him and the city attorney for which we pay dearly for his services, why did he not advise him on the restructuring that they are going to do within our city employees before the City Council meeting? She said it would have been nice to have all of this resolved had he and the city attorney talked and Councilor Williams if he thinks he needs to be included in that so that we have verification of restructuring of these positions? She said she felt fortunate to have city employees who were willing to hang in there with us during our beginning stages of our new administration.

Joe Blaney said here we are again; we're still talking about changing the form of government. He said articles were changed in 2006 to certain ordinances in October of 2006. However, that was not what he was here to talk about. He said he was still wondering when we've got so many employees that haven't seen a satisfactory raise for so long why we're trying to bump these two positions? He said they had a nice raise in 2006, he said he's seen it. Now we're talking about an 18% raise over that and a 32+ % raise over that. He said our employees deserve better than that who are out in the field working. The other side, he would like to find out exactly some of the information that John Waters, supposedly had whacked out of everything. He said his understanding was that we had grants lined up for several years and he didn't know if any of the grants had been followed up on or followed through on. He said he would like to find out what's going on in way of our grants because that's what's keeping our city working, not Wal-Mart gross receipts tax. We need that grant money.

Carol Virden, City Clerk/Treasurer said, "we have picked up and will not leave the City in any type of predicament especially with those grants there all moving forward." Joe Blaney asked how the grant was for Downs Drive? She said they have not received a grant on Downs Drive as of yet.

Councilor Holman said as he understood it and that he and Councilor Williams had both done a little research, the salary for the former city manager was \$77,000.00 plus benefits for a total of \$106,000.00. Councilor Holman said that was the money that would be used to give the new position. He said the money is there to give these raises and at least a 2% raise across the board to the employees. He said hopefully that will answer Mr. Blaney's question. He said, "In other words \$106,000.00 you can raise the two positions, create another one, and you wouldn't expect people to have additional duties and not get raises and work for free, and they still wouldn't be making as much as the former city manager. All these things can be done with that salary that was on board at that time."

Sharon Paul said she was a resident of Agua Fria and said she would like to go back to the last council meeting where they discussed Escondido Hills Subdivision and Mr. Rowe and the city attorney described the city's position that they have an obligation. The biggest issue she said he had was the water and sewer line installation. She said the council has been informed that there are a lot of trees buried on that site and there was a lake on that property for sixty years. That was going to affect the compaction and the movement they are going to have in the sewer lines, the water lines and the roads you're going to have to maintain. She said when you look at the minutes of February 26, 2007 you address and updated Chapter 4 ordinances and there were compaction requirements in there. What you need to have on that site so that the City of Ruidoso Downs doesn't have to pay for costly repairs when they inherit those streets and water and sewer lines is there needs to be an independent company that does compaction testing on that site before there are any lines installed. She said there are 160 some trees buried on that site and that was admitted by Scott Rowe in his deposition. She said we are going to accept a lot of liability there and that we have our own compaction requirements under our old ordinances. She would like to see us require that soil testing before anything goes in on that site so the city doesn't inherit a very costly problem down the road and have to fix it all when he builds on very organic matter. She said in talking with some engineers he was probably going to excavate that organic matter, place native materials and more compaction to meet what the civil engineers want to prevent future problems of roads and lines breaking. She asked that the city require that and by an independent contractor before anything is built on it. She also submitted information on what happens when you build on organic matter and what happened was it developed a sinkhole. The example was an apartment complex built on organic matter. She said she appreciates the open-door policy in Steve Dunigan's office and the mayor's office and that being able to talk to the council, the whole atmosphere has changed.

Jim Burrow said Mr. Williams apologized for being out of town this weekend and not being able to help with the cleanup. He said he's seen Mr. Williams out there all by himself several days picking up trash, putting it in a bag, putting it on the side of the road and then coming back later with his pickup and carrying them to the waste department. He didn't think Mr. Williams needed to apologize.

Joyce Gustafson said in the minutes of November 26, 2007 the city manager stated he did not recommend a pay increase for any city employees for the fiscal year 2007-2008.

Chief Ortiz said he would like to mention from a note that, "On March 13, 2008 Lincoln County Sheriff Sergeant Robert Sheppard was shot and seriously wounded by Kurt Soerbeck of

Washington State. The incident started in Ruidoso while Sergeant Sheppard attempted to stop Soerbeck on an outstanding warrant from Washington State. The suspect refused to stop and was chased into Ruidoso Downs where Soerbeck pulled into a private driveway, exited his vehicle and shot Sergeant Sheppard four times before eluding law enforcement officials on a nationwide manhunt. For the next ten days our community and surrounding area were anxious and nervous and worried that the wanted fugitive was in our area. On March 20th our department located the vehicle here in Ruidoso Downs. On March 26, 2008 at approximately 1 p.m. Soerbeck was spotted by a sheriff deputy in Otero County and fatally shot as the deputy attempted to request additional identification from Soerbeck. News of Soerbeck's capture spread quickly and the community breathed a sigh of relief. Sergeant Robert Sheppard remains in serious condition from his wounds and is expected to make a full recovery." Chief Ortiz said Sheriff Virden presented him with a Certificate of Appreciation this afternoon for the department and it read, "On behalf of the Lincoln County Sheriff's Office I want to personally thank you for your assistance and support in the aftermath of the tragic shooting of Sergeant Robert Sheppard. All of your efforts are sincerely appreciated by my office and friends and family of Robert Sheppard." Signed: Rick Virden, Lincoln County Sheriff

Jim Burrow said he was at therapy this afternoon and saw Sergeant Sheppard there this afternoon. He was riding the bicycle, doing the treadmill and the things he needs to do. He is looking real good and talking real good. He said he thanks the Lord that he is here today.

Councilor Holman said this shows how we as a municipality can pull together in so many situations and yet we fight together like a family as families do. But, when it gets right down to it in a crisis situation we're all of the same family and we're proud of our city.

EXECUTIVE SESSION

Mayor Armstrong stated next item on the agenda was 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 and CV-2006-0337

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 and CV-2006-0337

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

Mayor Armstrong closed the regular meeting at 6:46 p.m. and invited W.T. Martin, Jr., City Attorney, and Carol Virden, City Clerk, into the Council Chambers after a five-minute recess.

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

Councilor Williams moved to go back into regular session. Seconded by Councilor Hood. Roll call votes: Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Olivo, Aye. Motion carried.

Mayor Armstrong called the regular session back to order at 7:45 p.m. and Councilor Williams attested to the fact that the only items discussed in Executive Session were that of threatening and/or pending litigation pursuant to Open Meetings Act; Section 10-15-1 Subparagraph (H) 7. and no actions were taken.

ADJOURNMENT

Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn at 7:46 p.m. Motion seconded by Councilor Williams. Motion passed unanimously.

Tom E. Armstrong, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer