

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
SEPTEMBER 22, 2008

The Council of the City of Ruidoso Downs met in regular session on September 22, 2008. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Chief Ortiz, DPS Director 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
Alfred Ortiz, DPS Director
Terri Mosley, Finance Director
W.T. Martin Jr., City Attorney
Cleatus Richards, Public Works Director

APPROVAL OF AGENDA

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

Mayor Armstrong said he wanted to change the wording on Item 12H to read Consider Mayor's Appointment-Bob A. Miller Public Relations for The Hubbard Museum of the American West.

Councilor Williams moved to approve agenda with the change made by the mayor. Seconded by Councilor Hood.

Councilor Williams said they did not get any information on that and that he would wait until they do that but he wanted to let them know they did not receive anything in the package.

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.

Mayor Armstrong entertained a motion to approve the Consent Agenda.

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

Councilor Hood said he would like to pull the minutes for the September 3, 2008 Workshop and would also like to pull Accounts Payables. He said in the minutes of the Workshop on page 7 he was talking with Ms. Compton and in that statement there was a comment made by Mr. Olivo and the minutes don't reflect that.

Carol Virden, City Clerk/Treasurer said the reason that the statement made by Councilor Olivo and Councilor Hood was not a part of the Lincoln County Transit discussion. Councilor Hood said he disagreed with her and he has a memo asking her to correct the minutes. Carol Virden, City Clerk/Treasurer said she did not get that memo. Councilor Hood said he was giving it to her tonight. He said he would read it to her and the following is how the memo was stated:

There was a comment made by Councilor Olivo on September 3, 2008 Workshop on the Public Transportation according to the Senior Center's transportation. This comment expressed disagreement of what I said to Ms. Compton. I would like the minutes to reflect the exact comment that Councilor Olivo made so that the public will be aware of our positions in the public record. My supporters are asking questions about what happened in the workshop and the minutes do not reflect an accurate assessment of the recorded record. I would appreciate the minutes being corrected.

W.T. Martin Jr. said it may be appropriate that he make a comment. He said while he recognizes that traditionally minutes by a governing body such as the City of Ruidoso Downs generally tend to contain more detail than what you might see in a set of minutes. Your sets of minutes are supposed to contain the actions that are taken by a governing body. If you use Roberts Rules of Order the minutes could be as bare as having a motion, who did it, who made the second, what were the contents of the motion is and whether or not that particular motion passed or did not pass. There has always been a tendency to include a lot in these minutes. The question one has to deal with is do you put everything that is said into the minutes or do you stay with some summarization? What is the business that was handled in that meeting? He said his position is that we stay with what the business was that was handled. If there is something else that was said or done that needs to be dealt with or attention the tapes are there and available. Your tapes are your best record of what transpired. He said he wants his commentary on the record for purposes of the discussion and it doesn't have anything to do with whether what Councilor Hood is presenting in the form of a motion or request. It is his perception of what is legally required.

Councilor Hood said he would go on with Accounts Payables. He said on page 3 there is an item for Brian Dominguez in the General Fund-Public Safety Department 10-62-43020. He said he wanted an explanation of why Brian Dominguez got per diem for going to Hobbs.

Terri Mosley, Finance Director said he was one of our officers. Councilor Hood said that was fine and didn't have a problem with that. He said on page 6 under the General Fund-Street Department-Emergency Flood he would like an explanation on why the Lincoln County Solid Waste roll-off container, what was that for? Terri Mosley, Finance Director said it was for debris from the flood. Councilor Hood asked where it was placed? Mayor Armstrong said the only roll-off was at the Solid Waste itself. Councilor Hood said he noticed on this bill that we paid \$3,888.19 for one. Terri Mosley, Finance Director said there were several roll-offs. She said those are strictly for our citizens and have to pay a water bill.

Councilor Williams said the next one is right under that, the Baptist Church feeding of flood victims. Terri Mosley, Finance Director said they went into the church so they could feed our citizens that were displaced. There was an extra charge because of the extra trash and we ended up paying for it. She said we would be reimbursed through FEMA. Councilor Hood said he was wondering about that because that same morning they had that the people at the Senior Center they didn't have any food for them. He said he guessed they just didn't have the right kind of people.

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

APPROVAL OF MINUTES OF WORKSHOP MEETING OF SEPTEMBER 3, 2008.

Motion was made by Councilor Hood and seconded by Councilor Olivo to approve the Minutes of the Workshop Meeting of September 3, 2008.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF SEPTEMBER 8, 2008.

Motion was made by Councilor Hood and seconded by Councilor Olivo to approve the Minutes of the Regular Meeting of September 8, 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 Olivo to approve Accounts Payables.

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 Unfinished Business. There was no Unfinished Business.

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

Mayor Armstrong stated next item on the agenda was Other Business and that items are for discussion only and no action will be taken.

Chief Ortiz, DPS Director said he wanted to give a brief report of last weekend's Aspen Motorcycle Rally in the Ruidoso Downs area. It turned out to be a successful event and a lot more traffic was here and those who were driving around on Saturday morning witnessed some of the traffic congestion. He said estimates are about 50,000 at this event and they will be talking to the organizers in the near future to see what they can do to alleviate some of the congestion. He said he was happy to report that for the second year we had no incidents as far as casualties or injuries. He said he believed there were only two incidents at the rally itself and were medical type situations.

Mayor Armstrong asked him to speak on the sirens too.

Chief Ortiz, DPS Director said a while back they discussed they notification system here in Ruidoso Downs. Last week Ruidoso had proposed to us that we get on line with their siren operations. Essentially what they will be doing is sound off their emergency siren system and they would like for us to coordinate that same emergency system with them as well. He said on the first of every month at noon we will be sounding off the sirens both in the Village of Ruidoso and the City of Ruidoso Downs. We will have six radio stations, three AM and three FM stations that will be disseminating the information to citizens and they will be broadcasting vital information for any impending emergencies we might have in our area. He said this will be a good plan with consistency for both the Village and the City of Ruidoso Downs so that the entire area will be accustomed to the sirens once a month. They will be putting out an informational package to the community and the radio stations they should listen to should we have an emergency.

Councilor Hood asked Chief Ortiz how the motorcycles worked out during the rally? Chief Ortiz said they worked out good and these were a very nice piece of equipment that will service the City of Ruidoso Downs with traffic control and other types of events in the future. He said he hopes this will be a fuel-efficient vehicle. Councilor Hood said he saw the one Jim Minter was driving and it looked very nice. He saw him Saturday night.

COMMITTEE REPORTS

Mayor Armstrong stated next item on the agenda was Committee Reports.

Gary Williams said the Beautification Committee met earlier in the month and organized Trek for Trash coming up on October 18th and if anyone wanted to participate it would start at the Senior Center and move from there. He said this would be the first year that we will work with the Ruidoso committee and each resident will pick up the communities. Theirs will be held this Saturday, September 27th and that they were going to concentrate

down on Rio Street and by the river. They are going to start at 9:00 on Saturday so if anyone wanted to help they would appreciate that and they are going to reciprocate with us in October and that would allow our committee to go up into areas where we usually don't do trash pick up. The Desert Poppy seeds, which were picked by our community by a survey, will be distributed to businesses and anyone else who would like to have some. We will put some around the park and plan to work with Parks & Recreation to plant some trees that we may get donated from Conley's or Season's to plant next spring. The committee is working hard to make things happen in the City and thanked everyone who helps us or who wants to help. He said it is a great chance to enhance the City.

Paul van Gulick, Chairman for the Economic Development Board said we have welcomed some new members and gotten together to do some brainstorming. He said Kathy McCormick came to present us with an award for being a Certified Community again and that loosens up \$5,000 in addition to \$5,000 that we had already gotten. He said we are working on applying that to updating a website so that we have a link from the City website and we're looking forward to that. He said there should be a lot of information for people who want to bring businesses in here and give them information they need fairly quickly. It could also help people who are looking to relocate into town. The other \$5,000 will go for various things. He said we have a really good group and should be able to get some traction this year.

Mayor Armstrong asked if Bonnie Richardson was here for Parks & Recreation and she was not. There was no one else from the committee to speak. Mayor Armstrong asked if anyone had questions for Parks & Recreation? There were no questions.

Paul van Gulick, Chairman for Planning & Zoning said during the last month they have continued to update the zoning map and ordinance. They are looking at it as they go along and if stuff makes sense and they can trim it down they do and if it makes no sense they throw it out. He said they have made quite a bit of progress and the end result should be something that is web-friendly. After they are done with the ordinance they are going to piece together tables and executive summaries so that people can get the information they need right away. Steve Dunigan, Planning & Zoning Director said it certainly is a long process and they are scheduling these workshops at every opportunity and as soon as they have something finalized they will move on to the next thing. Mayor Armstrong asked if there were set times for these workshops? Paul van Gulick said they have one regular meeting every month and then try to schedule a workshop a couple of weeks from that. He said they are public meetings and invite people to come in with input. Steve Dunigan said the next meeting on Tuesday the 30th at 5:30 right here.

Mayor Armstrong said next was the Lodgers' Tax Committee but they don't meet regularly.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Consider Approving Resolution No. 2008-19 Infrastructure Capital Improvement Plan (ICIP) 2010-2014.

Mayor Armstrong entertained a motion to approve Resolution No. 2008-19 Infrastructure Capital Improvement Plan (ICIP) 2010-2014.

Councilor Olivo moved to approve Resolution No. 2008-19 Infrastructure Capital Improvement Plan (ICIP) 2010-2014. Seconded by Councilor Williams.

Councilor Williams said he wanted to move up reconstruction of city streets Phase IV into the top five and drop the DiPalo Hill Fire Station down to 2010-06.

Carol Virden, City Clerk/Treasurer asked Councilor Olivo to amend his motion to include the reversing of the 2010-05 rank and move it down and move the 2010-06 up to 05.

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. 2008-20 Supporting Ruidoso Downs Racetrack and Casino.

Mayor Armstrong entertained a motion to approve Resolution No. 2008-20 Supporting Ruidoso Downs Racetrack and Casino.

Councilor Olivo moved to approve Resolution No. 2008-20 Supporting Ruidoso Downs Racetrack and Casino. Seconded by Councilor Hood.

Councilor Hood asked if this was just to support his agenda going into the legislative session? Carol Virden, City Clerk/Treasurer said it was for the gaming tax reduction that will be introduced in the 2009 session. Councilor Hood asked if he wanted our support going into legislation?

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 Management Employee Contract for City of Ruidoso Downs Public Transit-Mickie Compton.

W.T. Martin Jr., City Attorney said it may be premature to approve this because Mickie did not get to see this draft as soon as he thought she had. He said he was not sure we were ready to go or whether she has issues that need further discussion and we would have to present it again. Mickie Compton said the only issue is her name. W.T. Martin Jr. said other than we can't spell her name.

Councilor Hood moved to approve Management Employee Contract for City of Ruidoso Downs Public Transit-Mickie Compton. Seconded by Councilor Olivo.

Councilor Holman said he is having a difficult time with some of the things that were said in the workshop and our council meetings and is getting different opinions on that. For instance, Ms. Compton had stated to him at one of the council meetings that we could stop this process if we felt uncomfortable at anytime and now he is hearing that that is not necessarily the case. Mickie Compton said as far as the escape clause it is not written in the Memorandum of Agreement but she has called and spoken to Lucille Lopez and Dave Harris is the program manager for the rail division of the public transportation. She said with a thirty-day notice we would be able to exit the contract and therefore the finances would be settled if there were any outstanding invoices and they would pay those out of the grant that we got. If we had capital that was still tied to the NMDOT they would need the capital back and Mickie Compton said she was referring to the vans. The Downs will receive title to the vehicles once they reach 100,000 miles or five years and if we've already reached that limitation the vehicles will stay here but if it's prior to those limitations then the capital would be returned. She said they are not going to punish us or fine us for exiting the contract. They want to encourage every municipality and entity that is willing to begin public transportation to remain in public transportation and they will help in every way to keep from having to exit if it is due to financial reasons or of that nature. If you want to get rid of the program it is the same thing. She said any part of the budget that is not spent at the end of the budget year is not kept. For instance if we had \$20,000 left that we didn't spend the NMDOT would take back and add to the next year's lot. Mickie Compton said there is a way to exit the contract or the agreement without any legal ramifications in a negative manner.

W.T. Martin Jr., City Attorney asked Mickie Compton if the best way to describe the contract was that the City has signed does not have any escape clause, period in the contract and there is a custom in practice outside the contract? Mickie Compton said that was correct and she could give them the phone numbers of these individuals at the NMDOT if they would feel more comfortable.

Councilor Holman said he is hearing Mickie Compton say what she had said before and that she was not changing her story but was hearing there was more to the story in that the NMDOT would look highly unfavorable if we back out and change our mind. With them being a powerful state agency could cause us some duress. Mickie Compton said no, the problem would be that this is a competitive grant and the NMDOT is only given a certain proportion of the federal allotment for public transportation so all of the entities within New Mexico that are providing public transportation and we have to compete for our budget allotment. She said when she goes before the RPO committee she has to verify and justify the need for that money however if we were to exit that grant six months down the road we have to give that money back and the remaining amount would go back to the NMDOT and they would more than likely distribute it to other entities. She said the one thing that would cause duress would be that they do a lot of preparation for this grant and use a lot of manpower. She said they would probably think twice the next time. Councilor Holman said what has really bothered him since the beginning is that there have been some bad things happen to our nation, financial institutions going under and looking down the road at things like Fannie Mae and Freddie Mac, there may come a time when we can't pay either.

He said we have already obligated ourselves to the Agua Fria Subdivision and we are due to put in sewer and water lines over there and we need to get on to those obligations. He said we need to take care of our current obligations and that our city streets are in terrible shape. He said if he asked the mayor if they were going to start on that tomorrow he would probably say they don't have the personnel. He said we are just getting spread so thin and that public transit is a good idea in theory. Mickie Compton said with the economic crisis it would actually qualify the Downs for some 100% money where there wouldn't be matches required to help those who are unemployed to help them get back to work and there are several programs for that. Public transportation is going to be an essential part of the Downs growth as well as the ability for economic rise in the Downs. Mickie Compton said she is prepared to work within the budget and there are additional funds for emergencies if fuel goes up. Councilor Holman said on her contract, Section II Item B, it says the City will reimburse. We are the fiscal agent and the operating manager but it is saying the City will be responsible although we have partners, are we responsible? Mickie Compton said we have line items that will take care of these and it will stay within that budget. W.T. Martin Jr., City Attorney said we are not obligated to pay any expenses that were not approved in advance. Mickie Compton said she would come monthly and report to the council at the meetings and provide reports to the Village and County as well. Councilor Holman said in one of these sections we were looking at her as one the sole persons to consider because of her expertise and experience. He asked what if something happened to her? Mickie Compton said from the beginning she would be training someone and that she would be sure that Terri Mosley was familiar with the financial part and that Carol Virden was familiar with most of the agreements and compliance issues. Councilor Holman said that would take a full year and what if something happened in the first few months? Mickie Compton said all we would have to do is call Dave Harris or Lucille Lopez and they will understand completely and provide what we need.

Councilor Williams said on Section II Compensation there is \$35,000 salary with 80% Fed and 20% divided three ways and that comes out to about 6.58% which would be approximately \$1,750 that would come out of that \$25,000 toward Mickie Compton's salary. He said no would come out of our pocket and that it would come out of the \$25,000. He asked if that is how it worked? Mickie Compton said every month she would submit an invoice to Terrie Mosley and she would pay that invoice, that invoice would be submitted to NMDOT; they would reimburse the Downs 80% of that money.

Councilor Williams said in Section IV it says the City shall not be liable for taxes, workman's comp, unemployment insurance, FICA and so on and so forth. Mickie Compton said that was correct. Councilor Holman asked Mayor Armstrong if he would mind putting this on the next council meeting to give us time to call the NMDOT and verify this information? Mickie Compton said the problem that exists is that October 1st is the day that the contract begins. Carol Virden, City Clerk/Treasurer said they could approve the employee contract for the transit system and bringing in Mickie Compton contingent upon the finding of the questions they have with Dave Harris and Lucille Lopez of the NMDOT. Councilor Holman said he would be fine with that and Mickie Compton said she would be fine with that. Mickie Compton said there was another individual name Melvin Martinez.

Councilor Hood said he would amend his motion and Councilor Olivo agreed.

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 Discussion of Billy the Kid National Scenic Byway Visitor Center Operating Proposal.

Laura Doth said she was the coordinator with the National Scenic Byway and Visitor Center. She said in their packet there is the original proposal. The Byway Center was built in 1998. She said they have enjoyed a long and lasting relationship with the Downs and hope to reaffirm that relationship and go from here. This last year the Byway Center very actively sought help from the New Mexico Tourism Department to include the Byway Center within their budget. They did include that in their request to the legislature this past year but unfortunately it was line itemed and they are not sure why that happened. She said funding at this point is handled completely through the Village of Ruidoso Lodgers' Tax. In the past they have had an agreement with the City of Ruidoso Downs for support to cover maintenance and some of the expenses associated with running the center. She said they originally also had a joint powers agreement with the Hubbard Museum and they were supposed to provide them with staffing from the museum so the people in the Byway Center were actually employees of the museum. She said all that has changed over the years and they are seeking additional support from the City of Ruidoso Downs. Laura said in the information they provided was how their staff keeps track of visitors to the center and pointed out that in the month of August they had 2,087 with 110 that were international in nature. They do get a tremendous amount of flow through the center. She said currently the Parks & Rec of the Village of Ruidoso the administration of the employees. She said she recently received a federal grant of \$50,000 grant that will be going toward new and improved interpretive display there. The State of New Mexico did come in and they are a designated visitor information center. With that the State provides all of the display racks and materials and came in to train the staff to operate as a designated New Mexico visitor center. She said they will again be working with the legislature to get funding again this year.

Councilor Williams asked if the building was owned by the Village of Ruidoso? Laura Doth said the property was donated by the Hubbard's and the building shows ownership with the Village of Ruidoso and was built with federal funds. Councilor Williams asked if the employees were employed by the Village of Ruidoso? Laura Doth said they are employed through a temporary personnel service but it is the Village of Ruidoso Lodger's Tax that pays for their service. She said their ultimate goal would be for them to become state employees. Councilor Williams said the original cooperative agreement was from 1998 between the Village of Ruidoso, the City of Ruidoso Downs, and the Hubbard Museum. Laura Doth said the agreement went for six years until 2004 when the City of Ruidoso Downs stopped paying and she didn't have an answer as to why. Councilor

Williams asked if it wouldn't be more conducive for us to give some of the Lodgers' Tax from the City of Ruidoso Downs? Laura Doth said they could do it that way but the way she gets the federal grant money to print the brochures and the help from the county is where the gap is. She said she can get additional advertising money but can't get money to pay for the employees and maintenance of the building. Councilor Williams asked what made them decide to come to the City of Ruidoso Downs for help? Laura Doth said when the agreement was first signed it was \$5,000 for Ruidoso, \$5,000 for Ruidoso Downs and the difference was made up from sales at the gift shop where they basically had a break-even situation and that's what paid the salaries and shortages. She said this was a partnership that worked well in the past and the employees and staff really work on sending people to the museum and Ruidoso Downs area. Councilor Williams asked if they have talked with Mr. Smith at the museum to see what the benefits from each one could help each other in the long term? Laura Doth said she has spoken with Jay Smith in the past and at one time had put in a joint grant proposal to do improvements. Councilor Williams asked if they have a joint powers agreement with the Village of Ruidoso and asked who was the fiscal agent for the Billy the Kid? Laura Doth said they work with the Village of Ruidoso as the fiscal agent on some of the grants and on additional grants they have created a 501 (C) 3 organization and they have acted as the fiscal agent on that.

Councilor Holman said the Village of Ruidoso owns that building and what he was hearing was a request for us to help them out with \$23,500. He said we own the Hubbard Museum of the American West and didn't think we were getting any help from the Village in supporting the museum. Laura Doth said she would have to disagree with him because the staff at the Byway Center make sure to send people to the museum and that the Village of Ruidoso Lodgers' Tax has been very responsible in marketing the entire area and in advertising the museum and racetrack are very big businesses they have marketed.

Councilor Hood asked Councilor Olivo was on the council at the time when Ruidoso Downs tried to take over the Scenic Byway? Councilor Olivo said he was. Councilor Hood asked if he knew why we didn't? Councilor Olivo said because our city manager John Waters didn't want to.

Councilor Holman asked Jay Smith, Museum Director if the museum was benefiting? Jay Smith said yes but couldn't give an exact dollar figure to the benefit because tourism is a strange thing. He said TKO Marketing does market the Hubbard Museum and Byway Center along with other things. He said perhaps the best thing would be for him to sit down with Laura, Ellen, and Bill Hirschfeld along with any council representatives to talk about how that benefit is clear and how our partnership is clear in direct partnership. He said Ellen and her staff came to visit in March and they did a session with them about what was happening at the museum and would be scheduling another one when the exhibit is changed. Jay Smith said the more in cooperation the better and that he did not have a desire to be up here in a political discussion but did have a desire to be up here in a

tourism discussion. He said he would recommend that they be allowed to have that discussion and come back in two weeks to have a more formal discussion or proposal. Councilor Williams said he would like to have more time and Councilor Hood said he would too. Carol Virden, City Clerk/Treasurer said this was for discussion anyway.

Ellen Bizzell said she was with the Village of Ruidoso Parks & Recreation Department and was the facility operator at the Billy the Kid Visitor Center. She said she and Jay have been working on trying to get some staff training. She said they have all that gorgeous jewelry and that now they are saying there is something you have to go see. Just today she was at the visitor center and they were telling someone that they don't have the retail store anymore but the museum does. Ellen wanted to make clear that the Village of Ruidoso pays her salary through the Parks & Rec Department and not through Lodgers' Tax funds.

Laura Doth said the building is owned by the Village of Ruidoso but because of the use of federal funds it is required to stay a byway center and is not able to be repurposed in any other way. Mayor Armstrong asked them to bring more information for review and it would be scheduled for another council meeting.

Mayor Armstrong stated next item on the agenda was Discussion and Consider Approving Memorandum of Agreement Between the New Mexico Department of Transportation (NMDOT) and City of Ruidoso Downs (Program 5317).

Mayor Armstrong asked if the Program 5317 was what we signed before? Mickie Compton said there are two separate programs. The 5311 Program is for all general public and is the program we applied for at the same time and did receive a grant allocation at the same time and work like brother and sister. This program was used as a means to provide another vehicle to aide with the disabled with ADA equipment. Then they announced there were additional operating funds and said they would give us an additional \$100,000 for operating funds that was new to the program. The operating funds could be used to pay for the driver of this vehicle. Mayor Armstrong asked if this would be our only ADA vehicle? Mickie Compton said all of the vehicles would be ADA capable.

Councilor Holman said under the MOA on page 2 it talks about program funds and under that paragraph it talks about the cancellation of the agreement as described in Section 22. He said it isn't Section 22 it is actually Section 23 and that may need to be changed. Section 23 has to do with Termination for Cause. It talks about the department downs under sub-grantee, which is the City and talking about failing to comply with any provisions. He said it says such things as: By such termination neither party may nullify obligations already incurred. W.T. Martin Jr., City Attorney said the Termination for Cause is Section 22 there is no Section 22; it is misnumbered, and jumps to Section 23.

Mayor Armstrong entertained a motion to approve Memorandum of Agreement between the New Mexico Department of Transportation (NMDOT) and City of Ruidoso Downs (Program 5317).

Councilor Hood moved to approve Memorandum of Agreement between the New Mexico Department of Transportation (NMDOT) and City of Ruidoso Downs (Program 5317). Seconded by Councilor Olivo.

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 Sacrament Mountain Emergency Management Group Mutual Assistance Agreement.

Councilor Williams moved to approve Sacrament Mountain Emergency Management Group Mutual Assistance Agreement. Seconded by Councilor Hood.

Chief Ortiz, DPS Director said this agreement is drawn between the Village of Ruidoso and the City of Ruidoso Downs. It is a written agreement to lend assistance between each other and any other small fire departments that are willing to participate in this assistance agreement. He said he strongly encourages the City of Ruidoso Downs to enter into this agreement. Councilor Holman said he agrees that we help each other out but asked why the statement "response to wild land fire is not addressed by this agreement." He asked why we would not include that and if we don't have a good reason why wouldn't we include that? Chief Ortiz said the wild land agreement is a separate agreement and is covered by the federal government and this is mainly to cover assistance necessary for structural fires within the communities.

W.T. Martin Jr., City Attorney asked the mayor and council to look at paragraph 13 and that the term goes for five years and then it can be automatically renewed simply by the Fire Chief signing the agreement again. He said it doesn't have to come back before the council for any consideration or review ever again unless there is a significant change in the agreement. He asked if this council wants to approve an agreement to give the department head the authority to sign a contract without any review? He said the other side of this is that you can cancel this thirty days after giving written notice. Councilor Hood asked Chief Ortiz if this could be revised? Chief Ortiz said assuming that all parties are in agreement it could be modified and if was a concern of the city council to do away with the five-year term it would have to be presented to the Village of Ruidoso. Councilor Hood asked if this could be brought back at the next council meeting or two and said he didn't feel comfortable in signing an agreement for someone five years down the road. Councilor Holman said it should be an issue. The decision should come back to the council and not the department head. Chief Ortiz asked what Councilor Hood's proposal would be? Councilor Hood said his proposal would be that the agreement be for one year. W.T. Martin Jr., City Attorney asked if it should come before the council or for the department head to make the decision? Councilor Hood said it should come before the council. Councilor Williams said if they were going to go to an annual agreement and it would come up for approval each year there would be no reason for the council to go through this every year so it should go on for an annual renewal

and approval by the department heads. W.T. Martin Jr., City Attorney asked if it was a good idea to have a department head approve rather than the council?

Councilor Williams said he would like to amend his motion to make it an annual agreement pending council approval of such after it is rewritten and brought back at the next council meeting. Seconded by Councilor Hood with changes.

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 Memorandum of Understanding Between the Village of Ruidoso and the City of Ruidoso Downs as the Administrative Authority for the Ruidoso Downs Department of Public Safety for DWI enforcement Activities and Reimbursement of Costs.

Chief Ortiz, DPS Director said the Memorandum of Understanding between the Village and Ruidoso Downs as the fiscal agent where the City of Ruidoso Downs becomes the administrative authority. He said we would take grants for DWI enforcement. We would submit time sheets for overtime involved for working this program. He said there is \$3,000 that has been awarded to the City of Ruidoso Downs DPS for participating in this program.

W.T. Martin Jr., City Attorney said if they would turn to paragraph 8 this provides that this City will hold the Village harmless and indemnify them of any losses that may arise from this contract. He said this is not a level plane and there is not a reciprocal indemnification back to the City of Ruidoso Downs for any losses we might incur due to something the Village of Ruidoso does as fiscal agent. This needs to be completely rewritten. We could sit and argue if the Village of Ruidoso as fiscal agent is there anything they could do to create liability or a loss on the part of City. The first time you say it can't happen it happens he said and caution is the word here.

Councilor Holman agreed and said we are kind of in this situation with the Wastewater Treatment Plant. Councilor Hood agreed. Councilor Williams said on the third paragraph in which the Village wishes to utilize a part to, and asked if that should be the City? W.T. Martin Jr. said he was correct.

Councilor Hood moved to postpone this to the next council 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 to Consider Mayor's Appointment-Bob A. Miller Public Relations for the Hubbard Museum of the American West.

Mayor Armstrong said Bob is well known all over the state and could advertise for the museum in his travels throughout the state. Councilor Hood asked how his health was. Mayor Armstrong said he has a clean bill of health.

Councilor Hood moved to approve Bob A. Miller Public Relations for the 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 Consider Rescheduling Tuesday, October 14, 2008 Regular City Council Meeting to Monday, October 6, 2008.

Councilor Williams moved to reschedule Tuesday, October 14, 2008 regular City Council Meeting to Monday, October 6, 2008. 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 Allocating Lodgers' Tax Fund to Ruidoso Chili Society-\$1,500.00.

Mayor Armstrong entertained a motion to approve allocating Lodgers' Tax fund to Ruidoso Chili Society-\$1,500.00.

Councilor Williams moved to approve allocating Lodgers' Tax fund to Ruidoso Chili Society-\$1,500.00. Seconded by Councilor Hood.

Councilor Williams said the reason for this is that it is being held in the Downs. Councilor Holman said this talks about helping local charities and asked if anyone what charities they were contributing to? Jim Burrow said he was a member of the Ruidoso Noon Lion's Club and they were co-sponsors of this chili cook-off. He said proceeds go to charities and anything the Lion's Club does, 100%, goes back into the community. Councilor Hood said the Noon Lion's Club has helped the Senior Center and the Meals on Wheels program and a couple of those members deliver lunches to help the community.

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

PUBLIC INPUT

Mayor Armstrong stated next item on the agenda was Public Input with a three-minute time limit.

Wayne Williams said he came here tonight to support the transit system but some of his thoughts had changed since this meeting. He said he still wanted to say some of the thoughts he had put down. He said he would like to thank Councilor Williams for his no vote on the contract and that it was the right vote. Wayne Williams read from what he had written and is as follows:

I gave my word that I would accept the vote of the City on this transit system. In the spirit of that statement I would like to state that I agree with Councilor Holman said in the minutes of the last meeting and I quote, "Since the city council has decided to pursue the Lincoln County Transit he would like to see all of us get behind it and make sure it is going to work. We don't need criticism or undermining." In light of that statement I have some concerns. One-at the bottom of page 3 and on page 7 and also page 10 of last month's minutes Councilor Williams and Councilor Hood and W.T. Martin Jr. it seems had already picked the person to run the transit system. The question I have with this choice is this: By their own statement and the statements of others and citizens in the room who heard what was said by Mickie Compton, why would this council want to enter into a contract with someone who at best had misled us and at the worst lied to us? I would at least like to recommend to the council to advertise for a qualified person to fill the job. As Councilor Williams stated in a selection process for Public Works Director one choice is not good enough, you don't know if you're getting the right person for the job. As a citizen what I've heard tonight I consider myself a stockholder in Ruidoso Downs and you guys are the Board of Directors of Ruidoso Downs. I'm was sitting here tonight listening to what was going on. Mickie Compton sat in front of me reading her contract. You guys were asking questions still don't know what the heck is in this agreement and you're still asking questions but yet you award the contract. You have no business in the world to do that to vote to give a contract out to somebody when you are still asking questions about what's in it and she doesn't know because she's reading. As a citizen I'm flabbergasted. I would like to support this thing because I said I would.

W.T. Martin Jr., City Attorney told Mr. Williams that what he didn't know was that he circulated the proposed draft to the city council days ago and they have had opportunity to go through it for days. Wayne Williams said they are still asking questions and Mr. Martin said he would expect them to but his statement that they just got it this evening was uninformed. Wayne Williams said she was reading her contract and he can't believe they would assume she is the only one in this state that is qualified and that you would award a contract when you still don't know how this transit system is going to work.

Beverly Renfro said she lives on the corner of Colorado and Nevada and that road is terrible. She said she has been told for four years that it would be done this summer, this summer, this summer and it hasn't been done. She said she has an issue right now because the ruts are so deep coming around that corner that it is diverting all of the water onto her property. They were gone last week and when they got home the water had come right up to her front door but didn't go into the house. She said whatever we can do to kind of put a band-aid on it to get it fixed would be great. Anyone walking down that street, there is an element of liability because the ruts are getting to about twelve inches. Mayor Armstrong said they made a survey of that the other day.

Sue Garrett said it was a decision of the council and the mayor when Councilor Olivo was on the council to pursue the feasibility to take over the Scenic Byway. It went through a lot of discussion but the Village of Ruidoso decided they would maintain at their expense the Scenic Byway. At that time we felt we had taken over the museum and had that expense. She said she still feels that way that the museum does a wonderful thing for the area but it is a definite cost to the City. Councilor Olivo asked when that was? Carol Virden, City Clerk/Treasurer said it was August 2005.

Ellen Bizzell said she was the Keep Ruidoso Beautiful coordinator and this Friday they are going to have a tire amnesty program and invited us to participate. She said we could bring tires from our homes and businesses and maybe from our shop but they have to be 17 inches or less. She said it would be at Schoolhouse Park from 8:00 to 4:00 and on Saturday from 8:00 to 2:00. On Saturday it is first come first served until the roll off is filled.

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.

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.

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. 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 closed the regular meeting at 7:26 p.m. and invited W.T. Martin, Jr., City Attorney, Carol Virden, City Clerk/Treasurer, and Cleatus Richards, Public Works Director into the Council Chambers after a five-minute recess.

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

Councilor Olivo moved to go back into regular session. Seconded by Councilor Hood. 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 asked that a member of the City Council attest to the fact that the only items discussed in Executive Session were that of Threatening and/or Pending litigation pursuant to the Open Meetings Act Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant.

Councilor Hood attested to the fact that the only items discussed in executive sessions were that of discussion of threatened and/or pending litigation Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant and no action was taken.

ADJOURNMENT

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

Councilor Olivo moved to adjourn at 7:46 p.m. Seconded by Councilor Holman. All were in favor and motion passed.

Tom E. Armstrong, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer