

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
DECEMBER 8, 2008

The Council of the City of Ruidoso Downs met in regular session on December 8, 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  
Terri Mosley, Finance Director  
Alfred Ortiz, DPS Director  
Cleatus Richards, Public Works Director  
W.T. Martin Jr., City Attorney

APPROVAL OF AGENDA

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

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

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

APPROVAL OF CONSENT AGENDA

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

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

Councilor Olivo said he would like to pull two items from Accounts Payables. One item was from page 2 under Senior Citizens for \$334.90 for mail and the second item was from page 3 under Senior Citizens for \$5,000 for activities and \$27,108 for cook aid/van driver.

Councilor Williams asked what discussion was needed? Councilor Holman asked what the justification was for pulling these off of the agenda? Councilor Olivo said \$334.90 was spent of the citizen's money to advertise the Senior Citizens Center and in his opinion this was under the county and Lincoln County should pay for that instead of the citizens of Ruidoso Downs. Mayor Armstrong said this was advertisement for what the Senior Citizens Center can do and when they can do and activities for the senior citizens. He said it had not been advertised enough and they were trying to increase the numbers of senior citizens using the Senior Citizens Center. Councilor Olivo said we lease that building and the City doesn't even own it but federal funds were used to build that building. Carol Virden, City Clerk/Treasurer said the reason for the flyer that the City of Ruidoso Downs did, not specifically for the Senior Citizens Center. The concerns from councilors as well as citizens was that the Ruidoso Downs residents were not aware of the activities or use of a medical transportation to take them to doctors or hospitals or whatever the need was. Because Lincoln County does have the lease on this Senior Citizens, they run a quarterly notice as to the activities and all the information we took from them to put in the flyer but they don't distribute to all the residents in the county. We felt in order to assure some of the citizens concerned of the information not being sent to all Ruidoso Downs citizens and councilors we chose to do a flyer to all citizens of Ruidoso Downs with all the information.

Councilor Olivo asked why we were the only municipality in Lincoln County that donates money for activities at the Senior Citizens? Mayor Armstrong said the City of Ruidoso Downs feels that we are more concerned with our senior citizens based on the activities that we want them to have and do that this is why this was done. It was to help them with their needs. It was voted on here for the van driver and probably will be looked at for the activities. This is something that has been done for years and years and after looking into it he could see it was a good fund to do after looking at the people they have. Many places have a lot of volunteers that could do this stuff but it looks like the people that need it are not able to volunteer to help each other. The City of Ruidoso Downs has stepped in and said they want to do a little bit more. We are centrally located and it promotes our town. We are not trying to make money off of this but mainly just to help our senior citizens. Carol Virden, City Clerk/Treasurer said former Mayor Bob Miller when he was elected in March of 2000 wanted to help the senior citizens in Ruidoso Downs. The board at the time approved during their budget process a request from the county, Ada Hendryx, for the \$5,000 for the activities. Councilor Olivo said if he was correct wasn't that started by Mayor Hayhurst? Carol Virden, City Clerk/Treasurer said it was originally but former Mayor Miller wanted to continue in that and also wanted to assist the county with a cook aid/van driver. Councilor Olivo said last week there was some responsibility to get some answers and one of them was on the van driver and tonight they are asking him to vote on a cook aid/van driver for a total of \$27,108 a year. He asked Terri Mosley, Finance Director if we donate this to the county or if they bill us? Terri Mosley, Finance Director said the bill us once a year. She said we received a bill from them, we approved it and paid it and that's the way it's been done. Councilor Olivo asked how many times a year we have to pay it? Terri Mosley said once a year. Councilor Olivo said it shows it was paid on 11/26/08 and then it says cook aid/van driver 08-09. Carol Virden, City Clerk/Treasurer said it is for fiscal year 2008-2009 and if council recalls they did have a budget process and budget workshops and these were included in the format. There was a final hearing on the budget and council did vote on the fiscal year 2008-2009 with these two for the \$5,000 for the Senior Citizens activities as well as the funds for the cook aid/van driver. She said she wanted to apologize to the

council because when they presented the budget it only said van driver and did not have cook aid in there. Councilor Olivo said he goes to eat at the Senior Center everyday and they have a great cook but has never seen the van driver in the kitchen at all. All he ever sees her do is the bookwork in the office. He said it doesn't say here that he is going to vote for a clerk, it says he is voting for a cook aid/van driver. He said this was for Terri, they did have a van driver for the month of September and that was the last day for the regular driver and he said he believed the new driver was hired in November. He asked if we got reimbursed for the month of October? Terri Mosley said no. Councilor Olivo said so then we donated \$2,259 to the county if we didn't get reimbursed and get that money back. Carol Virden, City Clerk/Treasurer asked Councilor Olivo what type of reimbursement he was talking about? Councilor Olivo said we pay for the year and that is for twelve months a year and we didn't have a driver for one month. Carol Virden asked if there was a cook aid in there? Councilor Olivo said no due to health reasons. Councilor Olivo said his concern was that we were misusing public funds due to the fact that when we were talking about transportation of three or more citizens a day. He said he got a letter from the county that verifies we only transported 144 units in the units in a one-week trip for 07 to 08. We are paying \$27,108 for a month and he said he thought that included benefits. If you break that down to four weeks a month it means we're paying \$564.75 a week for a cook aid/van driver not clerk. If you break that down to five days a week that includes holidays, that means we're paying \$112.95 to transport 1/6<sup>th</sup> of a person for a day, not 3 people a day, 1/6<sup>th</sup> of a person. That is 12 persons a month, 3 people a week and 1/6<sup>th</sup> of a person a day. With the public transportation we have now we would be better off putting \$2,000 in an account and any senior citizens who wants transportation could get a pass and a trip would cost \$1.00 or a round trip for \$2.00. We would be saving ourselves a lot of money. He said with the county record that came back to him showed 144 units and that would cost \$288 a year if you are making round trips.

Mayor Armstrong said these things would be addressed when the next budget review comes up. He said he wasn't sure about all the figures and probably couldn't answer all of that tonight. He said he knows there is more activity with the van than is written down here. Councilor Olivo reminded the mayor that the City of Ruidoso Downs has to provide the county with a van for transportation. He said he thought the county donated that van to the transit system. Carol Virden, City Clerk/Treasurer said the county returned the van to the City of Ruidoso Downs and the City of Ruidoso Downs in turn gave the van to the transit. Councilor Olivo asked if we have a van to transport these people now that is wheelchair accessible? Mayor Armstrong said we will find that out but believed they did have one.

Councilor Holman said as Councilor Olivo is suggesting transferring some of this to the transit and he would have a problem doing that. What they are looking at tonight on the transportation if this is originally designated at a county responsibility and the City of Ruidoso Downs shouldn't even be involved in that part of it. He said what he's been hearing is that we've been paying \$27,000 annually for an activity that is the responsibility of the county. Therefore, we couldn't take an additional step of transferring some of that money around to supplement the transit system because we shouldn't have been doing that in the first place if it's the county responsibility. So, he said he would have that question.

Carol Virden, City Clerk/Treasurer said if they would recall as she stated earlier that former mayor Bob Miller, and she was incorrect in stating that Bob Miller started the activities, it was former mayor Hayhurst. Mayor Miller when he asked the county what the Village of Ruidoso Downs could do for them the citizens of Ruidoso Downs said was to provide a driver for transportation to medical appointments basically. So, that is what he felt the administration of Ruidoso Downs could do at the time. Mayor Armstrong said it was the previous mayor and evidently there must have been a problem that he felt he could help with for the senior citizens here. He said they will be looking at this but couldn't solve it without having all of the information. He said the mailing to the citizens about the Senior Center he didn't want to take away from because the senior's may need the information. Mayor Armstrong said he knows there are twenty-four meals delivered.

Councilor Holman said in this investigation if in fact we are justified that we have been involved and it is justified by a previous administration then he would suggest by the figures that Councilor Olivo says he has then we need to look if we are justified in this in what it is costing us. He said it sounds like we are hauling less than a handful of people for \$27,000. He said we're not even hauling one full person a day and that is something we might want to check into and factor in the fact that we have our transit system that started just today. He said we may want to replace that and it would be a \$27,000 plus saving a year. Mayor Armstrong said they just met with Ada Hendryx and the county manager over this and these were the questions that were asked and it may come to be but right now we are dealing with the council that voted for this to continue on with this but they need more information. Councilor Olivo said his only concern is why are we the only municipality that has to do this? He said Capitan, Carrizozo, and Hondo don't donate the money but get the same services. Councilor Holman said that was a choice that we decided to do and has nothing to do with the other municipalities. He said he would be concerned with spending a considerable amount of money that was a county responsibility. Councilor Holman said the question was too whether that was a donation or a bill? He said you do not violate the anti-donation clause if you are donating to another municipality. Carol Virden, City Clerk/Treasurer agreed. He said he supposed we could get a bill for a donation. He said he hoped we would check into spending city money if it is a county responsibility but we don't want to be in an adverse stance with the county if it is for a good cause. There is no reason to deliberately agitate the county.

Councilor Williams said if we continue to pursue this, the county is going to stay go ahead and take the services and move everything out of that building and then we will have a vacant building. You will be running our senior citizens out to who knows where from a place where they can come and enjoy and do activities and have a meal. He said the county is tired of us dragging them over this about money. The money was budgeted back in July through this year and to the end of this year to June 30<sup>th</sup>. When the building becomes vacant then you can save money on trash pickup, on water and all these things. He said you are pushing this and it's getting old. He said it is a great opportunity for our citizens in this community to use this facility. He asked how many communities do you see remove money from a senior center? And, how many communities do you then see stand up and say, "we did good, we did right?" He said it is unfair to the people who live in this city that more than just a few people don't like what's going on. He told Councilor Olivo that he goes there and enjoys it yet he's the one that it trying to shut it down.

Councilor Olivo said he has spent a lot of hours at the senior center and Councilor Williams wasn't even around at the time. Councilor Williams said this goes back to meetings in 2004 and it is just not necessary.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF NOVEMBER 24, 2008.

Motion was made by Councilor Williams and seconded by Councilor Hood to approve the Minutes of the Regular Meeting of November 24, 2008.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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

PUBLIC HEARINGS

Mayor Armstrong stated the next item on the agenda was Accomplishments of the Community Development Block Grant Program particularly the Colonias Phase 2b Emergency Water System Improvement Project No. 05-C-RS-1-7-G-35.

Carol Virden, City Clerk/Treasurer said this is a 3-year project that has been completed as far as the water lines along U.S. Highway 70 in front of Wal-Mart. One of the federal requirements for completing this CDBG project is that we are to give notice of a Public Hearing to inform the public that we have completed this project. We did that by issuing a legal notice in the paper and we did that on November 19, 2008. Ruidoso Downs received a grant in the amount of \$500,000 under a Colonias category to replace water lines and said we are happy to report to the council and citizens that we have now completed this project. The project consisted of 1,700 linear feet of 12-inch water lines along U.S. Highway 70. Ruby Rael who is our project manager will schedule a closeout document for the completion of the paperwork in the near future.

Mayor Armstrong said he hereby opened the Public Hearing for comments and would be accepting comments in the following order. Persons must approach the podium one at a time, state their name, and present their testimony with a three-minute time limit.

There was no one to speak.

Mayor Armstrong said with no comments he hereby closed the Public Hearing.

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was Unfinished Business.

Councilor Holman said at this time and since the Public Transit started today he would like to consider the councilors and with the help of our media that we would figure out some way to ride that transit, maybe a couple of them from Capitan and couple of them from the valley. He said they could visit with the people that are riding and do some public relations and let people know that we are behind it and support it. He said maybe the mayor too could ride on one of these trips. It would be good publicity and we could express some of our opinions and it would be a good start. Mayor Armstrong said that was a good idea and would be the only way to see what the problems are and maybe we could foresee these problems before they happen. Councilor Hood said he would try to schedule a time to ride it. He said he spoke to Ms. Compton this afternoon and that they had been very busy.

Councilor Williams said on Friday, Dec. 12<sup>th</sup> at 5:30 p.m. there would be the All American Christmas event in the All American Park. There will be Santa and anyone who is interested in donating food or cash or volunteering it would be appreciated. He said it was a good opportunity for our citizens to enjoy something special that we as a community are providing.

Mayor Armstrong said the Auxiliary used to put the event on. Councilor Olivo said since the Auxiliary is gone that Parks & Rec should take it over

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

Mayor Armstrong stated next item on the agenda was Other Business-Update on Regional Wastewater Treatment Plant Settlement Agreement Compliance Documents.

Carol Virden, City Clerk/Treasurer said she would give a little bit of background. On July 27, 2008 the councilors approved entering into an agreement between the City of Ruidoso Downs and Molzen-Corbin & Associates for the oversight and monitoring and aid in the Settlement Agreement compliance. Under that Settlement Agreement that we are trying to comply with is under Item Section 43 A-D. Section 43 A is on the sewer service plan and consists of a report that describes the various non-point sources of nutrients loading upstream of the wastewater treatment plant and we do have a list of subdivisions and the occupied lots, vacant lots, and deposit costs and the completion of those projects in the report and actual dates. Section 43 B consists of the industrial sewer survey. We have completed that and will continue in the business registration to issue and to complete before they will get their business license and registration. Section 43 C consists of the Watershed Education Program and the City of Ruidoso Downs did adopt Ordinance 2006-

1 on the Storm Water Pollution Program and also Ordinance 2006-2 Toxic Detergent Restrictions. With that in mind she said we just adopted an Ordinance on the Grease, Oil, and Sand Interceptors that will be a part of the report that will be submitted to the New Mexico Environment Department. On the Storm Water Pollution we have done flyers that are to inform residents of Storm Water Pollutants in the area and to call City Hall Code Enforcement or Public Works. She said we also will be mailing out what is the clean choices for clean water in your household wastes and After the Storm, a guide to understanding Storm Water, Managing Your Construction Site. Then we'll have to follow our Planning & Zoning ordinance. And, also Caring for Your Lawn & Garden. This report will be delivered to the New Mexico Environment Department on December 16<sup>th</sup> and we are hoping to get a letter back saying that we have met with our compliance.

W.T. Martin Jr., City Attorney said we are about one year ahead of meeting our deadline.

Cleatus Richards, Public Works Director said we are way ahead of Ruidoso.

Mayor Armstrong said this is a very expensive settlement and he said he would like to thank all of the staff for getting on board with this and that it has not been an easy chore.

#### NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Discussion and/or Consider Approving Draft Authority bill for Legislation Regarding the Creation of a Regional Water and Wastewater Authority-H. John Underwood.

H. John Underwood said he was the attorney for the Village of Ruidoso in regard to its participation in the Joint Use Board, which operates the Wastewater Treatment Plant, and that he is also the lobbyist for the Village of Ruidoso. He said it is with that hat on that he is here before them tonight. He said he has talked to most of them before tonight and as the mayor has said it is long, laborious, and expensive too. The Joint Powers Agreement has been around for a very long period of time and to his knowledge a Joint Powers Agreement usually has a short life and not meant to last for a long period of time and is probably not meant to carry on the existence of the construction, maintenance, and operation of a 40 million dollar wastewater treatment plant. In this task some of the business relationships between the Village of Ruidoso and the City of Ruidoso Downs have not been what he would refer to as lovey-dovey. Rightfully from both parties and he did not want to fault or blame but we are dealing with a Joint Powers Agreement that was drawn up some thirty years ago that is out-moded, out-of-date, out of use and beyond its real scope and purpose. When these things continue to occur and there are differences of opinion in ways to operate the plant, ways to pay for the plant, how much are we responsible for and how much are you responsible for. The bottom line is that we need to operate the wastewater treatment plant and operate it effectively. He said he contacted the State council service in regard to the Joint Use Board Agreement and asked them to

draft a Wastewater Authority Bill. He asked them to draft that along the same lines as the Solid Waste Authority Bill which was done at the inception of the communities in Lincoln County some twenty years ago. All in all the Solid Waste Authority has been a resounding success. The people he went to draft legislation year round. He said with that he would let us know what parameters he asked them to draft it with and that it was not set in stone. He said he would like to file this by the end of January and in final form by January 20<sup>th</sup> if in fact we agree this is what we should do. There are other options available. Other options are to renegotiate and redraft the current Joint Use Agreement under the Joint Powers Agreement in a way that will accurately reflect the interests and accurately operate the plant. That Joint Powers Agreement should create as much as possible a separate entity to operate that plant. He said the problem he sees with that is that it becomes very political because what happens is every two years there is another election and there is no continuity. One other recommendation would be for the Village of Ruidoso to take over operation of the plant and for Ruidoso Downs to become a customer. He said he was asked specifically by his council to ask our opinion on these questions and about the reorganization under the Joint Powers Agreement and also to get our comments to move forward with this piece of legislation with this caveat. The Village of Ruidoso has requested a joint meeting prior to the legislative session sometime during the second week of February. He said at that meeting he would expect that between now and then that we could give Mr. Martin our suggestions on language changes or questions that we have and that his village council would do the same and that we could come together for a unified position. In the meantime tonight's discussion is important for him to find out what our primary questions are so he can direct his answers to those and let us know what the parameters are in redrafting the legislation prior to the meeting.

Councilor Holman asked if H. John Underwood was asking for comments from them? He said he would ask that at the end of tonight, because he has a meeting on Wednesday with the Legislative Finance Committee and then a meeting the following Tuesday in front of the Revenue Taxation Policy Committee, and at both of those committees he wants to present to them in context only the fact that both of these bodies are desirous of perhaps bringing to them a Joint Authority Bill which would allow the formation of an authority.

Councilor Holman said H. John Underwood mentioned the customer issue and he was originally the one who initiated this. At the time he was not very happy because Mescalero was getting a real good situation and paying something like \$24,000 annually, not a month, and we were paying about that much a month. He said his statement at the council meeting was to make us a customer then if you are going to go that route. Since then he said he has totally changed his position because the rates have changed considerably and that wouldn't work for us. He said the way we are doing it now can work without going to an authority. From what he read an authority would be similar to a Joint Use Board but would have total power to raise taxes and take that part of our control away from us. As an example on some of the financing we decided on the General

Obligations Bonds to raise property taxes to pay for some of that. The Village elected to raise the rates. The reason we did that here is because we are more of a community that is not as affluent, we have people in lower income groups that is the reason we qualify for some of the grants. The council at that time elected to raise the property taxes feeling that it would put less stress on the people that were struggling. An authority that was elected would then be further removed. The Joint Use Board, if it was totally separate, could work. The problem he sees now is that it is not totally separate. He said he was amazed that the Joint Use Board had to check with the Village Council sometimes to okay what they had done. That is not a separate entity. He said that does not happen down here. When that Joint Use Board makes a decision we don't second-guess the decision. He said that has to be a total separate entity that doesn't have to answer to anyone. He suggested that the elected people which is a process that is pretty cumbersome, and you do get into politics even though you could further remove it, even though you already have some Village of Ruidoso people board that are doing that kind of paperwork. If we go with an authority we are looking at hiring totally different people and we're looking at PERA where with the Village they already have those people covered with PERA. If there was some way to still use the system, get it further removed so that it actually has authority to make decisions he said he thought we could make it work without totally giving up our power. There are many other things in that document that he said concerns him. He said really the only two entities involved are the Village and the City and the County may want to get out of the wastewater business. They aren't contributing financially and yet they have a say. This would be something they might be approached with and they might want to get out of the situation. If the County wanted to join in later they could do that with the ETZ. He said originally there might have been lines that went through the County and that is the reason they were included. The situation with Mescalero he would see as with an authority or making our Joint Use Board stronger and we could get the problem solved that he was originally so concerned about is Mescalero as a customer. He said we are putting our money into one organization and he could see the City benefiting by having Mescalero as a customer too. Since we elected to go with a GO Bond as opposed to raising the rates something would have to be worked out there particularly if we go to an authority about what to do down here if the authority can raise property taxes. We've already done this down here and that would put us in a bad situation.

H. John Underwood said he doesn't necessarily disagree and if there is a way, but his biggest question is that if they continue working as a Joint Use Board they are still going to have that personnel issue and put it with the Joint Use Board and not with the Village of Ruidoso, you can't say I don't want you involved but I do want you involved. If it's a Joint Use Board that you can redraft and redo that Joint Use Board is going to have to have its own fiscal management, personnel manager, and be in the business of doing that. One of the reasons they have had to go back to the Village council for certain things is because they are the fiscal agent and they are the people who employ all the personnel out there. He said he thought the reason the County was put in there was to break a tie vote and the

only interest the County has is that they are the fifth member so that is not a major deal. Councilor Holman said one of the finest people he has ever known and that is good for the board is Dave Parks. If the County is still going to be involved and to have a totally fair situation they shouldn't live in Ruidoso or Ruidoso Downs. H. John Underwood said when it comes down to negotiating the make up of that board you are going to have strong differences of opinion on how many members should be on that board based on current usage, current paying, and responsibilities of the Wastewater Treatment Plant. He said he would expect in that situation that Ruidoso would say they are 80% responsible so perhaps we should have 80% make up of the board and Ruidoso Downs should have 20% make up of the board. He said he is ready and able to work towards a conclusion and reconciliation of those issues. Councilor Holman said nothing has been easy about this but we have to get past that and work together as a team. H. John Underwood said each member of the board are appointees of the mayor. Mayor Armstrong said our worries are that given the right to govern ourselves as to what our growth might be. If we are paying monthly then we have no say so and we want to be a part and have a voice, we want to vote and have our own people making decisions down here. Mayor Armstrong told H. John Underwood that he knows it has to be done and that it doesn't work quite like it should but we don't want to lose our authority to be able to do what we have to do. W.T. Martin Jr., City Attorney said there is nothing setup as to the criteria as to what standards we should go by and procedures. Others will probably talk about the taxation issues. He said we allow this authority to create liens against property on unpaid bills and then we take away the statute of limitations entirely. There appears to be no requirement that these liens ever be recorded. For those people familiar with real estate you could end up buying a piece of real estate and ten or fifteen years ago this non-statutory lien was created that the statute of limitations never applies to and you've got an obligation out there that unbeknownst to you that you have to deal with. He said that is a flaw in this thing and you need a cut off somewhere. He said there could also be a situation arise based upon how the city might grow or what occurs that you could wind up in either of these communities with the authority having jurisdiction to some degree over parts of the city within the city's municipal boundaries. He said another thing in here is that landowners can seek inclusion. This would involve administrative issues too. W.T. Martin Jr. said if we go with an authority there is going to have to be a significant redraft from top to bottom to make it something that will work for us. He said maybe we should look at changing the JUB to where it has the authority with its own budget and we avoid some of the pitfalls of having an authority.

H. John Underwood said however way we choose to deal with this situation can be positive. He said the JUB could be rewritten even if it take a mediator but he was thinking of the legislative agenda that he must follow and the session beginning the 20<sup>th</sup> of January which is a 60-day session. Councilor Holman said he thinks we all agree that what we are doing now is not satisfactory and something needs to be done. He said we should give the Joint Use Board more power and it should be mandatory that they vote on whether or not

to have an authority. He said it is not satisfactory on what we are doing now and it is now working. He said the Joint Use Board should have more authority and he is not willing to give it up the farm and turn it over to outside entity and we will have very little say.

H. John Underwood said he would like to request that Carol Virden, City Clerk/Treasurer contact Irma Devine at the Village to set up a joint meeting during the second week of January to discuss these issues. Councilor Hood said he agreed that we need to have a joint meeting to see if we can work out some the language and compromise to come up with a solution. He said because he doesn't go to the Joint Use Board meetings it is hard to keep up with things.

Councilor Holman asked H. John Underwood if he was asking us to give him the authority to go to the legislature and for us to do that in a motion and voted on it. H. John Underwood said he would like to get our approval to approach the legislature and let them know we are working on an authority bill and that if we can come to an agreement on it then we will be bringing it to legislature and he would like to do the same to the Revenue Tax Policy Committee. He said in the past they have been called on the carpet for not presenting a united front on the issue of the Wastewater Treatment Plant. He said whatever comes of this we need to be united and together and they would appreciate knowing we are working on an authority. We are going to have to show Santa Fe and Washington that whatever we come up with will be capable of operating and capable of raising the funds to manage the treatment plant.

Councilor Holman moved to allow H. John Underwood to meet with the legislature with our concerns and possible change of language. Seconded by Councilor Olivo.

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

Mayor Armstrong called for a 10-minute break at 7:14 p.m.

Mayor Armstrong called the regular session back to order at 7:23 p.m.

Mayor Armstrong stated next item on the agenda was to Consider Approving Resolution No. 2008-23 Open Meetings Act.

Carol Virden, City Clerk/Treasurer said we were obligated under the Open Meetings Act to notify the public of the reasonable notice of the Council meetings dates, times, and location under Section 10-15-1D of the Open Meetings Act. It requires us to annually determine what encompasses reasonable notice of its public meetings.

Councilor Hood moved to approve Resolution No. 2008-23 Open Meetings Act. Seconded by Councilor Olivo.

Councilor Williams said on page 2 under Regularly Scheduled Open Meetings it has "the City Manager and Staff" and asked if that needed to be reworded? Carol Virden, City Clerk/Treasurer said yes we do.

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. 2008-24 2009 Official Holidays.

Carol Virden, City Clerk/Treasurer said this is not a mandate but it is customary that the City Council by Resolution give the public notice of when City Hall will be closed for the official holidays for the year 2009 including one floating personal holiday to be taken at the discretion of the employee within the calendar year.

Councilor Williams moved to approve Resolution No. 2008-24 2009 Official Holidays. 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 Approving Hubbard Museum of the American West Rental Fee Schedule and Rental Policy.

Jay Smith, Museum Director said this request for Council action is necessitated by the creation of the Johnny & Marty Cope Learning Center which is a project they are in the process of finishing right now but it is now ready to accept facility rentals. This policy reflects changes from the past policy in both scope of service available. It has come together after looking at other museums policies as well as looking back at our own policies. In the past there were Council meetings, finance meetings, as well as other meetings in what is the Green Tree Room. The Green Tree Room as part of the process of changing the exhibit facility structure is now focused solely on providing exhibit space and the Cope Learning Center is now the only area available for rental. He said this has been reviewed by W.T. Martin, Jr., City Attorney and that he had no problems with it other than the things they have already worked out.

Councilor Hood moved to approve Hubbard Museum of the American West Rental Fee Schedule and Rental Policy. 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 Hubbard Museum of the American West Long Range Plan Update.

Jay Smith, Museum Director said he had the distinct pleasure to report to them about the progress they have made and some recommendations he has following his comments. This long-range plan was completed during the period of January through June 2006. During the time soon after the City of Ruidoso Downs was given the Hubbard Museum of the American West. He said he was instructed to provide a long-range plan to them that would give them an idea of how they would go forth with governing, creating policy, as well as to growth. The transition from private ownership to municipal government was like going from nighttime to daytime for many, many people. He said he can say with full confidence that they have negotiated their way through that process and today are a fully realized municipal museum governed, owned, and operated by the City of Ruidoso Downs. He said specifically there are a few points he would like to make about this plan. He said 53% of it is already complete, 30% of it is in progress and much of that 30% is nearing completion right now. Just 16% remains untouched. Untouched means such things as the Blockbuster exhibit which is something we've discussed but have not implemented because of the economic feasibility and status for the name of the museum. Another is creating a work-study program at major universities, which we have not done yet although we do have an internship program through ENMU-Ruidoso. Another thing is digitizing the collections and that would represent about a \$40,000 project where we will seek grant money and they will do that in the future but it has not been at the top of their priority list. He said he wanted to give them a sampling of what hasn't been done but what has been done is remarkable. They have gone in and replaced and repaired many of the necessary infrastructure items, things like the HVAC system and the sprinkler system. These things help them operate the museum effectively. Creating the Cope Learning Center will revolutionize our programming and provide brand new opportunities through the Smithsonian Institution. We will be able to connect directly to educators on the floor of the Smithsonian to do joint programming with them in the future. There will also be partnerships with other distant learning facilities like the Buffalo Bill Historical Center. He said he had just talked to the mayor and Terri today about the 'historic building' and that he was very pleased to let them know that they have \$330,000 committed to that project and not one of those dollars comes from the General Fund or our regular budget. All of those monies has been raised through private sources, grant, federal, and state money. He said the same is also true of the Cope Center. They have also formed the Hubbard Museum of the American West Foundation, the museum Advisory Board, they have balanced the budget asked Terri to confirm that it has been two years since there has been an audit finding. From a financial perspective he wanted to make them aware that they have been striving to achieve something that is very important in their field and that is to

be transparent in their operations. He said every employee at the museum, full-time and part-time look at the long-range plan and get to meet with him soon after they are hired to make sure that everyone is on-board and moving in the right direction. When the City took on the museum realized that museum's aren't profit-driven and that most museums do require assistance from state or federal or local level. He said their level of assistance is today at 10% and is well under the national average which is 40%. Originally our General Fund obligations to the museum was planned to be \$150,000 per year and if you look back to the budget it is now \$100,000 and has not asked for any additional in years past and don't intend to. He said they have already reduced the obligation of the City to the museum by 33% and their intent is to reduce that amount to the best of their ability to make the museum a self-sustaining organization. What they need to work on is that "iconic brand" that will differentiate and give the museum a certain identity. He said there are still people that refer to them as the Museum of the Horse or the Hubbard Museum.

Jay Smith, Museum Director said he was looking at the 2008 revenues and then he went back and looked at the 2004 revenues, a year before the City took over the museum. He said the revenues from the gift store in 2008 were slightly more than \$30,000 more than the year 2004. For those that would remember that was the year the dinosaur was here. He said we should be proud because we weren't sure of a lot of things when we took on the museum. He told them that what they have here is an 8 million dollar asset. The Wastewater Treatment Plant is going to be a 42 million dollar project. He said it is time to look at the long-range plan and will be 70% done with it by the year 2010. They have almost a whole new staff and said he could not praise those people enough.

Jay Smith, Museum Director asked that the council to give him the authority to come back in January 2009 to present them with a process to build a new long-range plan for the institution. He said it may be an eight to nine month planning process but that it was time for it and an important step in the growth and development of the facility.

Councilor Holman said he mentioned that the value was 8 million dollars and asked if that was an appraised value or an estimated value? Jay Smith, Museum Director said part of that is from an appraised figure and some of it comes from revised estimates that he has worked with through the auditor about two years ago when they were putting a valuation on it.

Councilor Hood said that he thought Jay Smith, Museum Director and his staff does an excellent job.

Jay Smith, Museum Director asked if he would be able to bring this long-range plan back in January? Mayor Armstrong said he would look forward to it. Councilor Hood said he would like to see it.

Mayor Armstrong stated next item on the agenda was consider approving Expenditure for Previous Fiscal Years-Invoiced in Fiscal Year 2008-2009 Tularosa Basin Telephone Company \$2,916.04.

Terri Mosley, Finance Director said they received a bill from Tularosa Basin Telephone Company and it included a past due amount of the total past due amount \$2,946.28 with \$2,916.04 from previous fiscal years. She said they have done some research and this is an oversight on the telephone company's billing. This is something we owe and is part of the Police Department's NCIC service and after this approval we will begin the \$30.24 per month billing.

Councilor Williams moved to approve payment for previous fiscal years-invoiced in Fiscal Year 2008-2009 Tularosa Basin Telephone Company \$2,916.04. Seconded by Councilor Holman.

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

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

Wayne Williams said as a citizen of Ruidoso Downs that two council members spoke up about wasteful spending even though it's not the popular thing to do but when it concerns the senior citizens he said he could understand being real protective of that facility. Their willingness to speak out about items that they feel are wasteful he applauds them for it. He said he would like to see more items addressed.

Jim Burrow said he has been in Ruidoso Downs since 1980 and has seen senior centers come and go. He said he has been down there to eat and then go in the back to wash dishes because they have been short of help and didn't have money to pay someone to do that. He said he was happy to say he enjoyed that and enjoys it now and only wished he could do more work. He said he helps with some of the fund-raising every year and it is one of the best things the City can do for its citizens. In the budget he hopes to see an increase next year. For those who have not gone down there should go on Thursday's and just sit whether you eat or not. If you don't want to eat there then bring your sack lunch and see what goes on after 1:00. You will see five or six tables of dominos, of cards. Some of them are having more fun than a barrel of monkeys. Some are from here, some from Alto, some from the valley, some from Ruidoso, but it is a community and is there to help them. As far as "Meals on Wheels" that is a very good thing. As far as transportation for people who need medical help he said he knows of several times when Tommy or

someone else has carried them to Albuquerque, Roswell, Las Cruces, or El Paso and locally.

Councilor Olivo said there was a nice celebration planned for this Friday at the Park and as far as he knows the Auxiliary had all kinds of lights to put up around the Senior Center. Mayor Armstrong said he would check with Mark because he was going to check with the Auxiliary to get these lights back.

#### 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 McTiegue Storm Ditch.

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 McTiegue Storm Ditch.

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: Wastewater Treatment and McTiegue Storm Ditch. 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 7:57 p.m. and invited W.T. Martin, Jr., City Attorney, Carol Virden, City Clerk/Treasurer, 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 Hood moved to go back into regular session. Seconded by Councilor Olivo.

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

Mayor Armstrong called the regular session back to order at 8:09 p.m. and asked that a member of the City Council attest to the fact that the only items discussed in Executive Session were that of Discussion of Threatening and/or Pending litigation pursuant to the Open Meetings Act Section 10-15-1 Subparagraph (H) 7 Wastewater Treatment Plant and McTiegue Storm Ditch.

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

ADJOURNMENT

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

Councilor Holman moved to adjourn at 8:10 p.m. Seconded by Councilor Olivo. All were in favor and motion passed.

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Tom E. Armstrong, Mayor

ATTEST:

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Carol Virden, City Clerk/Treasurer