

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JANUARY 12, 2009

The Council of the City of Ruidoso Downs met in regular session on January 12, 2009. Mayor pro tem Dean Holman called the meeting to order at 5:30 p.m. and asked Jim Burrow to lead the Pledge of Allegiance. Mayor pro tem Holman asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Hood
Mayor pro tem Holman

Councilor Williams
Councilor Olivo

Carol Virden, City Clerk/Treasurer informed Mayor pro tem Holman there was a quorum.

Also present:

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

APPROVAL OF AGENDA

Mayor pro tem Holman stated next item on the agenda was approval of the agenda.

Councilor Williams moved to approve the agenda. Seconded by Mayor pro tem Holman.

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

APPROVAL OF CONSENT AGENDA

Mayor pro tem Holman stated next item on the agenda was approval of the Consent Agenda.

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

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

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

Motion was made by Councilor Olivo and seconded by Councilor Williams to approve the Minutes of the Regular Meeting of December 8, 2008.

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

APPROVAL OF ACCOUNTS PAYABLES

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

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

APPROVAL OF MONTHLY REPORTS

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

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

COMMITTEE REPORTS

Mayor pro tem Holman stated next item on the agenda was Committee Reports.

Wayne Williams, member of the Economic Development Board said he did not think anything had changed since the last meeting. They were working on the web page. Carol Virden, City Clerk/Treasurer said she believed at the next meeting they would be considering accepting a proposal from the company and not to exceed \$5,000.00.

Bonnie Richardson, Chairperson for Parks & Recreation Committee said after a lot of really hard work they finally picked out some playground equipment and said the pictures were up on the wall. Their goal was to stretch their money as far as it would go and yet get durable equipment and safe equipment that was different from our neighbor's equipment. She said they spent every dime they could and yet had money left over to work on the baseball field and the dug out and then had money left over for fencing that the mayor really wanted. The grass part up there looks good so they didn't make any changes to that. They are looking forward to the budget hearing so they can ask for more money to do something extra. There has been some money set aside to work on the small park, the dugouts, and sprinklers for the infield and outfield.

Councilor Olivo said we promised the kids that came here from El Paso for the tournament that we would work on the infield because there were a lot of rocks. Bonnie

Richardson said they voted on that probably as far back as four or five months ago and it was her understanding that it was set to go.

Judy Miller, Chairperson for the Beautification Committee called other members from the committee to come up with her. First she said she wanted to report on their activities. They co-hosted the "All American Christmas in the Park" event on December 12th along with the Parks & Recreation Committee. In the past the Ruidoso Downs Auxiliary hosted this event and we were privileged to receive a \$100.00 donation from them to help with the event. She said they called Mr. Oakes and he was willing to give the donation because they are not active right now. She said they served hot chocolate, cookies, oranges, and candy for the kids and then bought lights for the trees. She said they would like to continue this event every year and just make it better and better.

Judy Miller, Chairperson said they were proud to announce that they received the "President's Circle Recognition Award" for 2008. This is our second year and that as an affiliate of Keep America Beautiful they were required to follow guidelines for our community action and accountability for meeting the program standards for certain reporting standards for good standing. She said these requirements include maintaining an active board/advisory council but they don't have that right now but they were going to look into that. Other requirements are submitting an Annual Report and attending six hours of training within a twelve-month period. She said Gary Williams attended some and she and Sebrina Lundquist attended some. Judy said their accomplishments would be announced at the National Conference this year. The committee will continue to follow through with planning events within the categories of the New Mexico Clean & Beautiful grant of which we received \$6,000.00. The next cleanup event will occur on Saturday, April 25th and is recognized as the Great American Cleanup and they will begin planning and advertising the event in early Spring.

Judy Miller, Chairperson held the award up and said this was the "President's Circle Recognition Award" and read the letter that accompanied the award to the audience and council. She said this was very important to them and that they had also completed other projects such as the litter prevention signs, education, and bought the "City Flower" seeds and handed those out to businesses along Highway 70 and purchased nine pounds more for spring planting, and bought trees for the park and would be planted soon. Judy Miller, Chairperson then presented the award to the mayor and city council. There was a round of applause.

Mayor pro tem Holman thanked Judy Miller, Sebrina Lundquist, Deb Dvorak, and Jean Proctor for attending the meeting tonight and thanked them and the entire committee for the effort and hard work in making the City a better place.

Paul van Gulick, Chairman for the Planning & Zoning Commission said there was not too much to report except that they were continuing their work on ordinance updates and definitions for subdivisions. He said the committee as whole is working together well and moving ahead regardless of how boring the subject matter may be at times. Mayor pro tem Holman said it may be boring but is very, very important in city government. He said he noticed our neighbor sometimes has more excitement and maybe too much. He said the committee was doing a great job and couldn't emphasize the importance of having a good Planning & Zoning Commission. Paul van Gulick said he appreciated that and wanted to say that the lines of communication between the committee and staff were open and that allowed them to avoid some conflicts.

PUBLIC HEARINGS

Mayor pro tem Holman stated the next item on the agenda was Ordinance No. 2009-01, an Ordinance Enacting New Section to Chapter 4 Departments Article 7 Health and Sanitation Department, Section 16C Titled "Fuel Surcharge" of the City of Ruidoso Downs Code of Ordinances.

Mayor pro tem Holman opened the Public Hearing and asked if there were any persons here to speak in opposition of this action?

Carol Virden, City Clerk/Treasurer said the ordinance contains that the monthly rate for fuel surcharge for residential accounts will not exceed \$2.00. This is a clean up because the Lincoln County Solid Waste has been charging the City of Ruidoso Downs a fuel charge that hasn't been passed and approved by city council prior to this Public Hearing. Mayor pro tem said in the councilor's packets was the statement that Ordinance 2009-01 shall take effect for the January 1, 2009 billing after publication as prescribed by law.

Judy Miller said she thought she read in the newspaper recently that they were going to reduce that charge. Carol Virden, City Clerk/Treasurer said that was correct and they met with Debra Ingle about this. The reason this came up is because we were having difficulty in comparison to what they were billing and the pay out. She said we pay out what we actually collect. There were charges for fuel surcharges that we did not have rates for. She said this council has never adopted fuel surcharges to be placed on the water or trash bills. Because we are approximately six month behind on the fuel surcharges starting July 2008, Debra Ingle the Operational Manager for the Solid Waste was to get approval from their board to waive the last six months and to begin billing in January 2009. It is not to exceed \$2.00 and if they charge \$1.00 that is what we are going to pay. Judy Miller said she thought it was \$1.00. Carol Virden said we have never paid the \$1.00. Judy Miller asked if they were going to reduce that? Carol Virden said as soon as they get notification from Debra then that is what we will charge.

There were no persons to speak in opposition.

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

There were no persons to speak in support.

Mayor pro tem Holman said he would therefore close the Public Hearing and entertained a motion for the adoption of Ordinance 2009-01.

Councilor Williams moved to adopt Ordinance No. 2009-01, an Ordinance enacting New Section to chapter 4 Departments Article 7 Health and Sanitation Department, Section 16C Titled "Fuel Surcharge" of the City of Ruidoso Downs Code of Ordinances. Seconded by Councilor Hood.

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

UNFINISHED BUSINESS

Mayor pro tem Holman stated next item on the agenda was Unfinished Business.

Councilor Olivo said during the December 8th meeting he asked if we got reimbursed from Lincoln County for the month for the van driver for the amount of \$2,259 and the administration was going to check into that. Terri Mosley, Finance Director said we have not received any reimbursements.

Councilor Olivo said they were also supposed to check on a van that was wheelchair equipped. He said he wants to make sure we have a van that is wheelchair equipped for our seniors or do we have to call our transit system to pick them up? Carol Virden, City Clerk/Treasurer asked if it was for the Senior Citizens Center or for the Transit? Councilor Olivo said it was for the Senior Citizens. Carol Virden said she didn't check into it but that she would call the County Manager tomorrow morning and get an answer to him tomorrow.

Councilor Olivo said there was something that went on at the Senior Center last week.

Councilor Hood asked Mayor pro tem Holman to be excused from the table during this discussion. Mayor pro tem Holman excused him.

Councilor Olivo said he wanted to make it clear tonight that he never wanted to close the Center and never thought of closing the Center as was stated here by both councilors at the last meeting and also a person here in the audience told the receptionist at the center that he should be ashamed of himself by still going to the center and trying to close the Center which is a lie. He said his concern is the misuse of public funds for the center and

transportation for our senior citizens. He said if they want to talk about him to tell the truth and not a lie.

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

Mayor pro tem Holman stated next item on the agenda was Presentation of Keep Ruidoso Downs Beautiful-Plaques-Judy Miller, Chairperson and that items are for discussion only and no action will be taken.

Mayor pro tem Holman said he would like to thank our media and friends for their reporting and tremendous service that he has observed for two or three years. They have done excellent reporting and have been accurate and while they don't add any sensationalism to the topics that are not justified. When they do add comments they don't take it out of context. They do a good job on picking up on the intent and getting the word out on the radio too. He said Todd Fuqua, who is here tonight, and Jim Kalvelage probably don't get the recognition they deserve and it is well past due.

Mayor pro tem Holman stated next item on the agenda was Update on Settlement Agreement compliance Documents.

W.T. Martin Jr., City Attorney said Cleatus Richards, Public Works Director and Carol Virden, City Clerk/Treasurer should present this since they went to the meeting in Santa Fe to present to NMED our package of compliance with those requirements that we had to meet as a city and that we met one year in advance.

Carol Virden, City Clerk/Treasurer said she and Cleatus Richards, Public Works Director on January 7, 2009 did deliver to Glenn Saums the acting Bureau Chief, Richard Powell, and Steve Baumgarn of the New Mexico Environment Department four reports that were prepared by Molzen Corbin & Associates by direction of the city council with the compliance of items 43A to 43D of the Settlement Agreement that was signed and dated May 16, 2007. She said 43A is the plan to provide sewer service to areas currently served by septic tanks, 43B the industrial sewer user survey, 43C Citizens Watershed Education program, and 43D the Storm Water Management program. What we have asked the New Mexico Environment Department to approve the efforts of our fulfillment of the compliance with the Settlement Agreement with a written response so we can create a record for our compliance documents. We will continue under the Notice of Intent to update some of the programs that we have in place and will continue every year until we are not required to submit reports or programs. She said the City of Ruidoso Downs is approximately one year ahead of schedule under the Settlement Agreement. If our citizens get flyers regarding Storm Water and Oil & Sand Interceptors it is due to the compliance report that we have to do on an annual basis. The documents are available for review for citizens who request so.

Cleatus Richards, Public Works Director said on some aspects of the reports there is no deadline. What we are trying to do is get recognition by the Environment Department that we have prepared documents and have intent of compliance. There is no sign-off recognition under the Settlement Agreement. What we are trying to get things in writing from them as we proceed and that we have proof that we have done what we are required to do. He said he thought our report was very well received by the Environment Department. Molzen Corbin went with them and with general review of the documents submitted they seemed quite satisfied with what they received and they will do a review and give us a written response.

Mayor pro tem Holman stated next item on the agenda was Update on Project Grants.

Carol Virden, City Clerk/Treasurer said the 2005 CDBG Grant in the amount of \$500,000 on December 8, 2008 the city council held a final Public Hearing on the accomplishments of that grant. That grant is closed as far as the funds. What we are waiting for is for Ruby Rael, Project Representative for the City of Ruidoso Downs to come down and do the close out documents and make sure we have all of our notices to the public, payment requests, salaries from the contractors in place, and things in that area. She said we are ready for Ruby to look at those documents.

Carol Virden, City Clerk/Treasurer said the next grant was on the Riverside Well project. The CDBG was the installation of 12-inch water line and that has been completed. The Riverside Well was the installation of 10-inch water line on Joe Welch and has been completed. The pressure test and bacterial test was approved. The street cut area has been repaved, the work on the well house has begun, the site is rough-graded, and the drainage well is installed. The well house piping was installed and the pad is paved and they continue to work on that as well.

Carol Virden, City Clerk/Treasurer said the Highway 70 Pedestrian Sidewalk along with two coop grants received from the New Mexico Department of Transportation. Meetings with the Highway Department, the Project Engineer, and the Public Works staff has been scheduled for tomorrow to determine the project limits, specifications, and funding requirements for both projects. The proposed schedule for construction is May 2009. Use of the Highway 70 project plans is approved for use on sidewalk projects, which will reduce the engineering costs.

Carol Virden, City Clerk/Treasurer said the Grip II is the Parker Bridge. The contractor has completed the site grubbing and commenced driving the bridge piles; piles have been driven and concrete filled. Work started on the pier cap. City crews have completed working on street widening at Parker and River Lane to accommodate traffic during bridge construction. Cleatus Richards, Public Works Director said they will be striping forms today. WWC is the subcontractor for the approach roadways and it is tentative to

start this Thursday. The bridge will have to have a 28-day cure before we can allow traffic on it and he said hopefully we will have the approaches built while the curing process is taking place. He hoped within a month they would be able to open that bridge up and then remove the single lane bridge.

Carol Virden, City Clerk/Treasurer said in 2007 through Representative "Dub" Williams the City of Ruidoso Downs was granted \$71,700 for lighting at All American Park. Prior to the budget process she asked the acting Public Works Director at that time if the lighting had been done. The answer she was given was that he had done all the lighting that he could do which meant that \$14,834 was spent out of the \$71,700. The grant was very specific to plan, design, and construct lighting for All American Park. She said she contacted Representative "Dub" Williams and asked him if he could in his efforts to ask for a change in the language for Senate Bill 827. Representative Williams was gracious enough to contact Hubert Quintana to write the letter on his behalf and bring it down here to get Representative "Dub" Williams signature to grant the City of Ruidoso Downs with the remaining funds of over \$56,000 for improvements and purchase of playground equipment, fencing, backstops, dugouts, sprinkler systems, and fertilizer to use the remaining funds.

Carol Virden, City Clerk/Treasurer said there is a 2006 grant that was given to the City of Ruidoso Downs for construction of a fire station. At the time we did not have an approval from the State Fire Marshal for the location on DiPalo Hill. The State Fire Marshal came here and felt it was not an adequate location due to the grade on DiPalo Hill and asked if the City could find another location for that fire station. There was a piece of land that came up in that conversation but unfortunately the land owner did not want to sell or trade for what we had already bought, the Hill property. We did get a letter from the Department of Finance & Administration with the possibilities of authorizing three of the City grants. We are in the process of getting architectural quotes for that \$40,000 and that is all you can do with the \$40,000, you cannot construct anything.

Carol Virden, City Clerk/Treasurer said for the Hubbard Museum we did receive 2008 funding for \$41,000 and it is very fortunate that the City of Ruidoso Downs has those monies tied in with housing, urban development federal funds for storage facilities for the Hubbard Museum. The design phase is near completion.

Jay Smith, Museum Director said there is also a coop grant for tourism for the museum.

Terri Mosley, Finance Director said we received two reimbursements in December for two of the grants. One is a 2005 grant for \$174,536 and this is related to the water line project. The second 2005 project was \$25,000 and that was the total amount of that grant.

Mayor pro tem Holman said it sounds like we're doing all right on those grants. Carol Virden, City Clerk, Treasurer said we haven't lost one yet. She said she had one more report. On Thursday, January 8, 2009 we had our Capital Outlay hearing before our legislatures at the Hubbard Museum of the American West. City Councilors, under ICIP, did adopt five priorities. Because of the shortfall of approximately six hundred million dollars from the State level it was a consensus that we push our priority #1 which is the Waste Water Treatment Plant because there is a deadline that we have. The Waste Water Treatment Plant has to be built by December of 2010. The funding that we lack between Ruidoso and Ruidoso Downs and the JUB is approximately eighteen to nineteen million dollars. We have submitted an investment strategy under the Economic Development Act out of Austin, TX for approximately ten million dollars. We do have reconstruction of streets, drainage, and Phase 1C for water improvements.

NEW BUSINESS

Mayor pro tem Holman stated next item on the agenda was Consider Approving Modification to Service Agreement FY 2008-2009 Lincoln County Transit-County of Lincoln.

W.T. Martin Jr., City Attorney said Lincoln County requested a change in paragraph three and wanted the word "annual" deleted. They wanted to add a new paragraph that their participation on an annual basis would be dependent on available funding that their commission felt was available. The changes have been made to the modified Service Agreement.

Mayor pro tem Holman entertained a motion to approve modification to Service Agreement FY 2008-2009 Lincoln County Transit-County of Lincoln.

Councilor Williams moved to approve modification to Service Agreement FY 2008-2009 Lincoln County Transit-County of Lincoln. Seconded by Councilor Olivo.

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

Mayor pro tem Holman stated next item on the agenda was Consider Approving Modification to Service Agreement FY 2008-2009 Lincoln County Transit-Village of Ruidoso.

Mayor pro tem Holman entertained a motion to approve modification to Service Agreement FY 2008-2009 Lincoln County Transit-Village of Ruidoso.

Councilor Olivo moved to approve modification to Service Agreement FY 2008-2009 Service Agreement FY 2008-2009 Lincoln County Transit-Village of Ruidoso. Seconded by Councilor Williams.

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

Mayor pro tem Holman stated next item on the agenda was Consider Approving Amendment of Purchase Agreement and Form of the Water rights Deed-Susan Latimer.

W.T. Martin Jr., City Attorney said years ago an application was filed with the State Engineer for change of purpose and water right. The State Engineer approved transfer of 4.832184 acre-feet to the City of Ruidoso Downs, which leaves an additional amount of 5.2838 acre feet that we have contracted to purchase. At this time the State Engineer has not approved and it has resulted in us having to amend the existing agreement to reflect what the State Engineer has approved to this point. Additional applications will have to be done for us to pick up the additional water rights contracted for.

Mayor pro tem Holman entertained a motion to approve Amendment of Purchase Agreement and Form of the Water Rights Deed-Susan Latimer.

Councilor Hood moved to approve Amendment of Purchase Agreement and Form of the Water rights Deed-Susan Latimer. Seconded by Councilor Olivo.

Roll call votes: Councilor Hood, Aye; Councilor Williams, Aye; Mayor pro tem 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)

Jim Burrow asked Carol Virden, City Clerk/Treasurer is there was any money left from the park? Carol said we would have to wait until all of the invoices come in and when they all come in they would give him a call on the playground equipment. He asked if there were any grants we need to be working on? Carol said we were working on all grants. He asked if there were any new ones coming up? Carol said because of the shortfall of approximately six hundred million with the State that it was not likely that many communities including ourselves will be granted any of the priorities in our priority list except maybe one or two. Jim Burrow asked what about some of our streets that need to be repaired and paved? Carol said they would continue to apply through the coop with the Department of Transportation in March 2009. We will make applications for the streets that we have a list of. Under the ICIP the streets were moved from priority #6 to priority #5. Jim Burrow agreed the Waste Water Treatment Plant should be the first

priority. He said the citizens of the City of Ruidoso Downs needs more input on what is going on with the projects aspect.

Mayor pro tem Holman said he and Councilor Williams got information that apparently was very accurate on the shortfall.

Jay Smith, Museum Director said they had a very successful opening of "Fort Stanton, An American Journey" on Saturday. There were 125 in attendance and about 200 overall. It was very well received and he thanked his staff David Mandel, Gwen McCausland, Jim Kofakis for a wonderful job.

Councilor Olivo said he wanted to remind the public that if they are experiencing problems with trash and brush not being picked up to please let him know. He said he requested a change in the driver for Ruidoso Downs for the brush and apparently they did.

Mayor pro tem Holman said another memo they got on the grants was that they specified that on the recurring grants if it has to do with the health, welfare, and safety of the citizens of a municipality that those would be the ones that would be continued.

Councilor Williams said he would like to thank Judy Miller and the ladies on the committee and Bonnie Richardson with Parks & Rec because the turnout was more than expected at the Christmas party last month. There were 62 kids in attendance and that Frankie Gonzales did a great job as Santa.

Bonnie Richardson said she wanted to express her thanks for the use of the Senior Citizens Center to come in from the cold.

Judy Miller said the update was wonderful and appreciated the information on the grants.

Councilor Olivo said he got an email from Lincoln County Transit that the seniors are really taking advantage of the transit system.

Carol Virden, City Clerk/Treasurer said they have scheduled a Public Hearing for the 2008 Minor Home Repair program on January 23rd at City Hall at 2:00. This is for people who were devastated by the Dolly flood and can start getting them appropriately assisted with the funds that we received.

ADJOURNMENT

There being no further business to attend to Mayor pro tem Holman entertained a motion to adjourn.

Councilor Williams moved to adjourn at 6:45 p.m. Seconded by Mayor pro tem Holman. All were in favor and motion passed.

Dean Holman, Mayor pro tem

ATTEST:

Carol Virden, City Clerk/Treasurer