

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
APRIL 13, 2009

The Council of the City of Ruidoso Downs met in regular session on April 13, 2009. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Steve Dunigan to lead the Pledge of Allegiance. Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Hood  
Councilor Holman

Councilor Williams  
Councilor Olivo

Carol Virden, City Clerk/Treasurer informed Mayor Armstrong there was a quorum.

Also present:

Carol Virden, City Clerk/Treasurer  
Steve Dunigan, Planning & 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 and said he would like to remove Item #12 Executive Session.

Mayor Armstrong entertained a motion to approve the agenda with the removal of Item #12 Executive Session.

Councilor Olivo moved to approve the agenda with the removal of Item #12 Executive Session. Seconded by Councilor Williams.

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 Consent Agenda.

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

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

APPROVAL OF MINUTES OF REGULAR MEETING OF MARCH 23, 2009.

Motion was made by Councilor Hood and seconded by Councilor Olivo to approve the Minutes of the Regular Meeting of March 23, 2009 of the City of Ruidoso Downs.

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 to Unfinished Business.

There was no Unfinished Business to be discussed.

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

Mayor Armstrong stated next item on the agenda was Other Business and no action would be taken.

Mayor Armstrong stated next item on the agenda was Employee of the Quarter-Planning and Zoning Department-Gilbert Morales.

Steve Dunigan, Planning and Zoning Director said Gilbert has been with us a little over a year. A Code Enforcement Officer tends to deal with things that are somewhat on the negative side but he has been a very consistent and helpful employee of the City of Ruidoso Downs. Steve said he knows that Gilbert has helped people himself and does care about the citizens of Ruidoso Downs.

Mayor Armstrong stated next item on the agenda was Recognition of Officer Joseph Bailey as Officer of the Year for the 12<sup>th</sup> Judicial District.

Chief Ortiz asked Senior Officer Bailey to come up. Chief Ortiz read a letter they sent to the 12<sup>th</sup> Judicial District Attorney's office. He said this was an annual award for officers of Lincoln and Otero counties. He said he would like to congratulate Officer Bailey for winning this award for 2008. Chief Ortiz also read a letter to Officer Bailey from the Alamogordo Elks Lodge #1897.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was Food Bank presentation-Ray Alborn.

Ray Alborn brought a box of food to show what was contained inside in case people were interested. He said he was president of the Food Bank and they were a 501-C which is a non-profit and they currently have 29 volunteers. All of the money they receive is used for food. They only have two bills, the telephone bill and insurance liability. Everything they buy is purchased in Lincoln County. He said he is here tonight to ask if there was any possibility of help from the City of Ruidoso Downs. In January of 2008 they had 105 families and in 2009 they had 197. In February 2008 they had 83 and in 2009 they had 160. In March of 2008 they had 54 and in 2009 they had 159. Individuals served in January 2008 were 256 and in 2009 it was 452. In February of 2008 it was 177 and in 2009 it was 413. In March of 2008 it was 239 and in 2009 it was 380. The numbers are increasing he said and the value of this box is about \$40.00. He said that doesn't include some things like Starbuck's gives them day-old pastries, Lawrence Brothers furnishes them with some day-old items. Mr. Alborn said the community is real good about having food drives and Curves just had a food drive where they collected about \$400 worth of food. Last year in November the high school collected in cereal alone about 2,500 boxes and that's about \$7,500 right there. He said they service Lincoln County and all they ask for is a picture ID for confirming addresses. They keep a card on who comes in with the name and family members and any comments. In their card files they have about 1,155 right now. From Ruidoso they have 560 and from Ruidoso Downs they have 406. They don't count the number of times but this shows that they have been in there at least one time. He said a year ago Marcia Palmer came and went through their box to check how nutritionally sound the contents were. She cut some things out and added some things. He said right now they are getting hammered pretty good. The First Baptist Church in Ruidoso Downs is open on Mon./Wed./Fri. from 12:00 to 4:00 and that Randy and his people have been really good to them. They have given them two rooms and don't charge them anything; they pay the utilities for them. He said they have about eight ice boxes and freezers running so it's costing them a little bit of money to have them down there. Mr. Alborn said they now have a relationship with the racetrack and have taken care of people who were without a paycheck for a couple of weeks.

Councilor Hood said he wanted to thank Mr. Alborn for his hard work.

Mayor Armstrong asked how someone could contact him. Mr. Alborn said the number is 378-8939. He also said he didn't mind if anyone called him at home.

Chief Ortiz said he would like to thank Mr. Alborn and that he has helped several members of our staff and City residents.

Mayor Armstrong stated next item on the agenda was Presentation of E-911 System-Art Rios-E-911 Program Manager-State of New Mexico, Local Government Division.

Art Rios said he works with the State of New Mexico Department of Finance in the Local Government Division, which the 911 funds projects are based out of. He said he is the program manager for Lincoln County. The way the 911 funds works is there is a 51-cent surcharge on everybody's residential line and cell phones. Those funds go into a fund with the Tax & Rev Department. His department oversees those funds. They get requests from communications centers all over the state. They pay 100 percent for dispatcher training and because of staffing and travel issues they will now be doing all of their training online. Also covered are any projects

through a GIS or 911 Addressing project. There is a fund that will only go to 911 Telephone equipment.

Councilor Williams said in Lincoln County the enhanced 911 has been completed and asked if there was a call in Lincoln County would 911 know where that residence was at?

Art Rios said if it was wireless and residential and they dialed from their landline then yes. The address associated with the phone will show up on a screen. Most of the carriers with wireless are done with the Phase I and Phase II technology. When someone dials 911 with their cell phone it will locate them either by triangulation or by GPS on their handsets. Those locations are plotted by a probability factor. The FCC are trying to set better standards but the wireless companies are not regulated.

Carol Virden, City Clerk/Treasurer asked Art Rios to give clarification on how 911 is established within the county or municipality. She said the county or Ruidoso, one of the two, was given a waiver and wanted to know the reasons why and how the municipality runs their 911. She asked if there was a different 911 for each county?

Art Rios said there were actually 47 psaps, which stands for Public Safety Answering Points. They are funded out of his office right now.

Chief Ortiz said Ruidoso and Ruidoso Downs being the primary psaps, one of their concerns in their dispatch is based on the amount of revenue collected on residential and cell phones, can any of that money be utilized for a secondary psap for our dispatch.

Art Rios said for training purpose of personnel only.

Chief Ortiz said he was interested in funds for operation of the enhanced 911. Having entered into a Memorandum of Understanding with the Village of Ruidoso to try to give them some reimbursement for 911 calls we've had some concerns over the amount to reimburse to them. He said they have been given conflicting information and that some of it has been reimbursed from the Department of Finance. He asked if the Department of Finance could help with any of that?

Art Rios said it sounds like there are some issues between two entities, which his office will not get into. It's up to the local entities to see how they want to charge for those calls.

Carol Virden, City Clerk/Treasurer said we invited Mr. Rios here to give an overview of how 911 works and where the funding comes from to make a proper decision at the next council meeting. It's not unheard of to do a per-call, per-basis and this is an option that we have. Art Rios said that is an option.

Chief Ortiz asked if the primary psap is obligated to service the secondary psap user as far as 911 calls? Art Rios said the calls go into the primary psap and then it's up to the local governments as to how they will disseminate them to the other users. Carol Virden said they had to place a call in order for them to continue providing the 911 information to us. She said she asked Mr. Rios here

to give an overview and to let us know if there were any grants for operating. Art Rios said there were funds available through the Department of Homeland Security.

Carol Virden, City Clerk/Treasurer said she asked Mr. Range if it was a state law that any municipality or county has to provide the 911 service. She said he told her it was.

A member of the audience asked what the average cost was per call? Art Rios said that would depend on the agency or agencies within a consolidated area and the number of base calls to divide it into.

Chief Ortiz asked if there were more and more municipalities going into a consolidated type of dispatch in New Mexico.

Art Rios said yes.

Mayor Armstrong stated next item on the agenda was Discussion and consideration of continuing as Fiscal Agent for Lincoln County Transit for FY 2009-2010.

Mickie Compton said she would encourage everyone to agree to this because it has been a huge success. We are at capacity and waiting anxiously for our next van. The sooner we can maintain our full service area it's going to be an outstanding service. She said it is a feather in the cap of the Downs to be fiscal agent. It shows that the Downs has confidence in the community as well as the Village and the County and the service to the citizens, they appreciate it. She said she has not marketed it due to the fact that they are at capacity. The Village and the County receive the reports just as the Downs receives and they are impressed as well.

Councilor Holman asked Mickie Compton if she was asking for a commitment tonight? Mickie said yes. He said as fiscal agent we will have additional expenses and asked if the other entities have committed to their \$25,000 for the next year? He asked if that was in writing?

Mickie Compton said the grant was written last year and justified by SERPO in October of last year. The state is now processing the final grant for the money allotment for 2009 & 2010. She has a presentation to give to the County on May 1<sup>st</sup> for the funding match. She should be going before the council at the Village at their next council meeting. Mickie said there should not be any additional expenses to the Downs anymore. The additional expense to the Downs is the capital, the 20% for the vans, however, you get to keep those and it would become the property of the Downs after 100,000 miles or 5 years.

Councilor Holman said we do have the additional expenses of employees. Mickie Compton said no, they are reimbursed and their salaries are billed to the state. He asked if we weren't responsible for one employee, a dispatcher? Carol Virden said not the dispatcher but for the clerk. If for some reason the transit fails we would pick up the clerk. Mickie said she has already been told that we scored high enough that our funding allotment would be equal to what we asked for. She is going to tell the Village and the County that their matching funds needs to be at Ruidoso Downs no later than October 1<sup>st</sup>. Councilor Holman said he would personally like to see that commitment from the State and then us and from the Village and the County. She anticipates

going before the state within the next 30 days. She said she applied for a 15-passenger van and a larger bus for this next year.

Mickie Compton said what would be a consensus from everyone would be to continue as fiscal agent contingent upon the County and the Village providing matching funds.

Mayor Armstrong entertained a motion for consideration of continuing as Fiscal Agent for Lincoln County Transit for FY 2009-2010.

Councilor Holman moved to approve continuing as fiscal agent for Lincoln County Transit for FY 2009-2010 contingent upon matching funds being provided by all entities. 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 Approving Third Renewal Agreement Between the City of Ruidoso Downs and Martin Law Firm for Professional Legal Services.

Councilor Olivo moved to not renew the attorney's contract and to direct staff to go out for an RFP for professional services.

Councilor Williams said that is not what was on the agenda and read by the mayor.

Carol Virden, City Clerk/Treasurer said Councilor Olivo made a motion not to approve this third renewal but because it states on the agenda to approve does not make it a concrete approval of the third renewal.

W.T. Martin Jr., City Attorney said he thought that was right. If the vote is to not approve the third renewal then you are automatically out for the bid process.

Carol Virden, City Clerk/Treasurer said there is a motion on the floor by Councilor Olivo not to approve.

Councilor Olivo said he would stick with the motion not to approve his contract and go out for an RFP. Seconded by Councilor Holman.

Councilor Hood said he wanted to know why they don't want to renew his contract. He's done an excellent job and we get a lot of good information from him. We get a lot more than we used to get from Mr. Bryant. He said he wanted to know why. Someone enlighten me he said.

Councilor Holman said the Martin Law Firm would be able to respond and he said he hoped that would be the case.

Mayor Armstrong stated they would be on the books for 80 days and would be able to respond to the RFP, which would allow other attorneys to give a bid for the job also.

Councilor Holman said he is always looking for the most with the least amount of cost. He said he would hope the Martin Law Firm would bid and then whatever the situation is from there to look at the amount. He said we are paying a considerable amount for legal services but also you never want to sacrifice quality when possible either.

Councilor Williams said we had a contract with Mr. Martin for 4 years renewable every year and there has to be a basis for denying the attorney to continue servicing the City other than the fact that you want it done and go out for an RFP, which makes no sense. The fact of cost was originally negotiated by the council and the governing body in 2007 and that cost was included in the contract. So now, you want to go back and say well maybe we can get a cheaper cost for an attorney or services to the City when the services that we are receiving so far does not warrant going out looking for another service. There is nothing I have seen happen in the last year that I've been on the council from a legal standpoint that affected the City negatively. I think us as a council have benefited greatly from the advice and information received considering some of the issues that we've had in the City that have been very, very important for us to make decisions on. I don't think at anytime we've been given bad advice. Sometimes you think about what's been given to you and you make decisions accordingly so I think every legal aspect of what we've heard from Mr. Martin and his legal services have been adequate enough for us to make the decisions we've made to go and say okay I guess it doesn't make any difference what you told us, we believe you but maybe we don't believe you, we want to find someone else that we can believe more into. He said he didn't think that was right. He said cost is always an issue and agreed they were looking to cut costs and was an advocate of that himself. He said he thought they have received generously the results of his expertise in the field that he has expertise in and that is water rights and some of the others that he has given us advice on including the wastewater plant. Councilor Williams said he didn't believe we have to go the RFP, he thought we need to allow the individual and his legal service companions that we have identified here in the contract to continue servicing our City to the level that he has and give him an option to show us that if you don't think he's doing a good job to show us that maybe he can do a better job. To just arbitrarily say thanks a lot for giving us two years but we can't work with you anymore. The issue of the fee again was negotiated by the City and the legal services came up to what it is approved by council at that time with a majority vote and so he said he would ask again what is the reason? Being that he may be from out of town should not penalize him. If you look at our directors in our City the majority of them live out of town but they provide the service to our City with dedication and integrity every day and he said he thought our attorney does the same thing. He said he would have to explain it to him and maybe the audience too but it was his right to make that call but an explanation would be adequate for me he said to work with and then say hmmm, maybe he has a point there.

Councilor Olivo said he has nothing against Mr. Martin and that he agreed with Councilor Williams and that he has done a beautiful job and the attorney we had before didn't give us any information. But, he said he got calls and he said he thought they should look at the cost of our attorney.

Councilor Williams said he looked over the revenues of the City and if you look at the revenues from this year and last year it's not that far off so we are not hurting as a City. He said we haven't had to be able to cut services, we haven't had to be able to say okay, keep that money in your pocket and not spend it, we're doing real well up to this point with three quarters of the year

through our fiscal year, and we're sitting okay. He said I don't think this 'well, maybe we'll negotiate a different cost, a different fee, maybe we'll have to go through the contract and do another analysis on fee structure.' It's always possible but to arbitrarily say cost is the only issue is not right. You agreed, you said the last attorney did not give us service that we should have had as an attorney should working with the City but we have had free information from Mr. Martin. Anytime you see an email, boom, Mr. Martin's giving you, Mr. Martin's giving you, Mr. Martin's giving you. I realize the concerns of the citizens and I think they are correct in how they approach this but we are responsible for our decisions that we make and we should look at this and very carefully before we put this out and create more of a problem that we already have.

Councilor Olivo said he thought about it real close like he stated but you can make your own decision by saying 'aye' or 'nay.' It's up to you; you can say yes or no.

Councilor Williams said that's not the way to approach it Councilor, you have not given me a reason to say 'aye' or 'nay.'

Councilor Olivo said I made a motion, it's up to you.

Councilor Williams said so, you won't even discuss it, and you're not going to give me anything to work with here.

Councilor Olivo said I just told you why I wanted it.

Councilor Williams said no you didn't.

Mayor Armstrong said we have a motion and a second and asked Carol Virden to take roll.

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

Carol Virden, City Clerk informed Mayor Armstrong there was a tie.

Mayor Armstrong said he believed certain things can come out of discussions and he feels they are split and sorry about that but I think we need to go out for the RFP so that would be yes. In that we have what to be done, 80 days for Mr. Martin and I would hope that he would come back. Other attorneys come in, I know that there's some issues here that I think to see if Mr. Martin would probably welcome if there were some other agreements for the contract.

Mayor Armstrong stated next item on the agenda was Consider Approving Celebrate New Mexico Statehood-University of New Mexico Library and Hubbard Museum of the American West-1000 Digital Objects.

Jay Smith, Museum Director said they were approached by Mike Kelly who is an Associate Dean at the University of New Mexico to participate in a project many museums and historical societies are participating in. Basically what they ask of us is to provide 1000 digital images from our collections to a repository being developed by UNM but that we would have access to those

images as well as the entire database of collections. In return they would pay us \$5,000 for the right to use those digital images. Basically this is something we need to do anyway for our own collection and for our own service to have the \$5,000 coming in to do the project allows us hopefully to hire a part-time temporary employee after July 1<sup>st</sup> and as you look at the agreement basically we are assured of being paid within the same fiscal year for that work. He said this is a win-win for us and for the State of New Mexico and that he would strongly urge the passage of this project.

Councilor Williams asked Jay Smith if he ever had any contact with UNM libraries with anything like this? Jay Smith said Mike Kelly is a long-time colleague of his and he met him 14-15 years ago in Kansas when he was at Wichita State University. He said Mike has applied through the Institute of Mining Museum Library Services for this grant. It's a three-year project and this is the kind of thing going on throughout the country, the kind of thing we need to be a part of. With our digital initiative and our technological initiative with the Cope Learning Center it fits right into what we've been doing and what we've been striving to do. The 1000 images that we provide will be able to go onto our database for research purposes as well as their database opening up even more information for people around the state as well as our own visitors without money coming out of our own pocket.

Councilor Holman asked if we were going to be out anything?

Jay Smith, Museum Director said no and that he has had long discussions with our Curator of Collections and it fits right in with our mission, our vision and long-range plan. With what we know of the software and our capacity we already have in place this should be zero cost to us and \$5,000 comes in to us. What it does for us coming up this summer and fall alleviates the necessity for Gwen and her volunteers to do this herself by hiring it out it frees her up to do more work on the upcoming exhibits and we're going to need her to help with the next major exhibit after the Nieman shows. He said he tries to look for the gray lining instead of the silver lining when he hears of a project that seems too good to be true. This is one that Mike Kelly has put together and he feels it's a great project and he would be proud to be a part of.

Mayor Armstrong entertained a motion to approve Celebrate New Mexico Statehood-University of New Mexico Library and Hubbard Museum of the American West-1000 Digital Objects.

Councilor Hood moved to approve Celebrate New Mexico Statehood-University of New Mexico Library and Hubbard Museum of the American West-1000 Digital Objects. 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 Lincoln County Transit Part-Time On-Call Driver-Dennis Rogers.

Mayor Armstrong entertained a motion to Lincoln County Transit Part-Time On-Call Driver-Dennis Rogers.

Councilor Olivo moved to approve Lincoln County Transit Part-Time On-Call Driver-Dennis Rogers. Seconded by Councilor Williams.

Mickie Compton said they will be acquiring some new vehicles so they will need to be increasing their staff and these are part-time on-call. These will be helpful at this time with the demand of the citizens and service it's almost impossible to keep our staff down to 20 hours a week which is two drivers. We will need Dennis and in addition to that we'll need more so that we can keep them down to 19.75 hours on the schedule.

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 Mayor's Appointment to Parks and Recreation Committee-to Replace Seat Vacated by Tomas Chavez with Rose Woodall-Clement.

Councilor Williams moved to approve Mayor's appointment to Parks and Recreation committee to replace seat vacated by Tomas Chavez with Rose Woodall-Clement. 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 Mayor's Appointment to Lodgers' Tax Committee-C.J. Bowker-Pine Springs Inn and Faith Smith, General Manager-La Quinta Inn & Suites.

Councilor Williams moved to approve Mayor's appointment to Lodgers' Tax Committee-C.J. Bowker-Pine Springs Inn and Faith Smith, General Manager-La Quinta Inn & Suites. Seconded by Councilor Hood.

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 asked if they had considered his request from the last meeting where the citizens of Ruidoso Downs who show a desire to become a part of the government of this town to receive a full package without having to pay extra for it? There are only a few of us that have requested a package every meeting and he said he personally felt they were worthy of getting it.

Joyce Gustafson said she had a question to be clarified concerning the Lincoln County Transit and wanted to make sure she understood correctly. We pay our \$25,000 like the County and Ruidoso but then we as fiscal agent had to pay an additional 20% for any van or bus that was purchased, not transit money but our money, is that correct? Carol Virden, City Clerk/Treasurer said yes. Joyce said after five years or after \$100,000 it becomes our property. At that point in time how

much is that van or bus worth? Is it worth the money that's coming in and she said she believes Ms. Compton said we're going to be out \$7,000 above and beyond that \$25,000, is that correct?

Mayor Armstrong said he thinks so.

Joyce Gustafson said okay, we're not going to get that money back until the \$100,000 or five years, whichever comes first, is that correct? Mickie Compton said that was correct. Joyce asked at that point in time what that van was going to be worth? Mayor Armstrong said he would get an answer for her. He said he believed that the vans and 100,000 miles is not much for a van. He said he has several vehicles that he drives and every one of them is over 100,000 miles and he's not thinking of getting rid of them. He said we could get our cost back of what we put into this and would be very surprised if we didn't. Mickie said they probably put on 3,000 miles per van per month.

ADJOURNMENT

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

Councilor Williams moved to adjourn at 7:10 p.m. Seconded by Councilor Holman.

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