

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
JUNE 22, 2009

The Council of the City of Ruidoso Downs met in regular session on June 22, 2009. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Zack Cook 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
Cleatus Richards, Public Works Director
Terri Mosley, Finance Director
W.T. Martin Jr., City Attorney
Lane Martin, Assistant City Attorney
Zack Cook, City Attorney

APPROVAL OF AGENDA

Mayor Armstrong stated next item on the agenda was approval of the agenda. He said he would like to pull off Item 10 under Public Hearing for Animal Control Ordinance 2009-07 from the agenda.

Mayor Armstrong entertained a motion to approve the agenda with Item 10 pulled.

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

Councilor Williams said he would like to point out something in Accounts Payables on page 10 under 6-40-49010 Water & Sewer Improvement expenditures, Item 2356, the purchase of 4.3214 acre feet of Water Right and wanted to make it know that it should be "Water Rights." Carol Virden, City Clerk/Treasurer said the reason for that is the program only allows so many characters when you are describing the description of an invoice

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

APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 8, 2009.

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

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

APPROVAL OF MONTHLY REPORTS

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

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

COMMITTEE REPORTS

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

Councilor Williams spoke for the Beautification Committee. He said the committee has purchased two benches to be placed in All American Park and the lettering on the benches will be "Keep Ruidoso Downs Beautiful." They have also purchased one pedestal table with four attached benches and that will also be put in All American Park. They have purchased lilac bushes to cover 300 feet around the perimeter of the backside of the park near the maintenance building. He said they would like to thank the Public Works director Cleatus Richards and Leonard Sanchez for helping them with that. He said other than that they are ready for them to put the sidewalk in on Highway 70 and would be a great addition to how our city looks.

Carol Virden, City Clerk/Treasurer said the Economic Development Board chairman and members have discussed making recommendations to the mayor to fill the vacancies on the board and they will be doing that very soon.

Carol Virden, City Clerk/Treasurer said she and Cleatus attended a meeting of the Rio Ruidoso Restoration Committee on June 5, 2009 at the Village of Ruidoso chambers. There was discussion of a revised RFP to secure a firm with experience in stream dynamics to develop recommendations for the watershed, restoration, enhanced physical conditions including water quality and enhanced water based recreational opportunities on the Rio Ruidoso, Carrizo Creek, Cedar Creek, Gavilan Canyon Creek, and the Alto Reservoir. She said they also presented the City's proposal on the Riverside Park, which contains 9.422 acres for development of a plan budget and phasing to meet the requirements and intent of the Consent Judgment. The Rio Ruidoso Restoration Committee commented favorably on our proposed Riverside Park but elected to defer on the action until the consultant selected under the RFP process has completed the study and will be submitting recommendations. We are awaiting another meeting with the River Restoration Committee sometime in the future.

UNFINISHED BUSINESS

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

There was no Unfinished Business.

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

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

Cleatus Richards, Public Works Director said for Project Updates his comment on the River Restoration Committee they sent him over a copy of the RFP with modifications to the Scope of Services. The Joint Use Board will have to act on this contract and he said he made it clear under the Scope of Services that the results of that study would be sent back to the Joint Use Board as well as the River Restoration Committee because the funding will have to come through the Joint Use Board and they should be fully involved with all aspects of that study. This will be given to whoever is awarded the RFP and that is to be published next Wednesday and will be out 30 days before proposals are brought back in. He said Terri and I will be on the selection committee and there will be at least three other people appointed to the selection committee. The way the study is laid out there is going to be a minimum of another six months to do that study so he said he didn't see there being able to do much more work on the Riverside Park to complete our \$150,000 of our obligation until it is started in March of next year unless he can convince the Restoration Committee to give part of the approval. They do not seem inclined to do that at the meeting they attended. Mayor Armstrong said he was also there and was very surprised that they were not ready to move forward on a lot of this stuff. Cleatus said this study seems to be a little beyond the original intention of the Scope of the River Restoration Committee's power and authority but that is what they agreed on. He said the Joint Use Board needs to be in control of how this study is organized and proceeds.

Mayor Armstrong said he believed our plans on the park met all the requirements that they put forth for us to do and he had hoped they would have allowed us to move forward. Cleatus said they planned to do a majority of the work to meet our obligations by using our own city crews. If we have three or more years to do that then we could make most of that contribution on our own.

Mayor Armstrong said he was looking forward to having a new park for the City of Ruidoso Downs and it is an area that would allow fishing.

Jay Smith, Museum Director said they had a very special evening on Saturday, June 13th and the occasion being the opening of the Leroy Neiman exhibit by the Hubbard Museum of the American West Foundation. At that event Governor Richardson presented them with a Proclamation that is now circulating proclaiming the month of June as the Leroy Neiman Exhibition month in the State of New Mexico. Jay said they would like to thank a couple of people for the success of that event and there were approximately 150 people in attendance including Mr. Holman and Mr. Olivo representing our city council. He said they have to thank Robert Donaldson the president of the Foundation as well as Laura Doth for her work in getting the Proclamation put together and the staff, especially Jim Kofakis for helping put together a great evening. He said on another level they also received a check that evening for \$90,000 from the Hubbard Foundation for the purpose of the construction of the storage building for later this summer.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was to Consider Approving Resolution No. 2009-08 Celebrating the Contribution of volunteers at the Hubbard Museum of the American West.

Mayor Armstrong read the Proclamation as follows:

Resolution Celebrating the Contribution of Volunteers at the Hubbard Museum of the American West

Whereas the Hubbard Museum of the American West is a Smithsonian Affiliate, owned and operated by the City of Ruidoso Downs, And

Whereas the Hubbard Museum is one of thousands of museums and organizations across the United States that successfully operates a volunteer program utilizing the talents and services of a corps of dedicated individuals investing their time and energy for the good of the community and organization they serve, And

Whereas the President's Council on Service and Civic Participation, administered by the Corporation for National and Community Service, has designated the Hubbard Museum as a certifying organization, And

Whereas the City of Ruidoso Downs and the Hubbard Museum are pleased to present the President's Award for Volunteers Service to the following individuals for over 500 hours of lifetime service: Mary Ann Crowell, Tex Crowell, and Zane Mead. The City of Ruidoso Downs and the Hubbard Museum further wish to present the President's Award for Volunteer Service to John Eilert, Peggy Johnson, Barbara O'Leary, Annette Stewart, and Joetyne Wright for over 1,000 hours of lifetime service, And

Whereas the City of Ruidoso Downs and the Hubbard Museum wish to make special commendation to Milfred "Obie" O'Brien, who has donated more than 4,000 hours of service to the Hubbard

Museum, thus earning the President's Call to Service Award, the highest award attainable in the nation for volunteer service;

Be it resolved today, that I, Tom Armstrong, Mayor of the City of Ruidoso Downs, and the City Council do hereby salute the service of these individuals to the Museum and to the City of Ruidoso Downs, and present these awards on behalf of President Obama and a grateful citizenry with our deepest appreciation.

Tom E. Armstrong, Mayor

Attest:

Carol Virden, City Clerk

Jay Smith, Museum Director said this award was brought to them by their Curator of Education, Patsy Jackson. This program is designated by the President and it was put together by President Bush and reaffirmed by President Obama to honor volunteers around the United States. He said it is an amazing achievement to give 500 hours of service as three of those here have and 1000 hours of others but it is incredible to give 4000 hours of service as Obie has. He said there were three individuals from the museum here tonight. He asked Janis Rowe, Gwen McCausland, and Patsy Jackson to stand. He presented plaques to the volunteers and other attendees. After the presentations Jay said these volunteer hours represent over \$170,000.00

Mayor Armstrong entertained a motion to approve Resolution No. 2009-08 Celebrating the Contribution of Volunteers at the Hubbard Museum of the American West.

Councilor Hood moved to approve Resolution No. 2009-08 Celebrating the Contribution of Volunteers at the Hubbard Museum of the American West. 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 Request from Betty Foster-Use of All American park-Arts & Crafts Show-September 5-6, 2009.

Carol Virden, City Clerk/Treasurer said Betty Foster was here this evening and introduced Mrs. Foster.

Betty Foster said they would like to have an Arts & Crafts show in All American Park over the Labor Day weekend. They were thinking about having as many as 150 booths but may not be able to fit that many in this year but want to make this an annual thing. They would like to also send out flyers about hotels and restaurants in Ruidoso Downs. This would be a tradition that would be carried on and would be something else going on during the Labor Day weekend.

Councilor Olivo said it used to be done by the Ruidoso Downs Auxiliary.

Betty Foster said they just want to do it outdoors where before they could go into the Senior Center but that was really a hassle. Mayor Armstrong asked if she knew where they were going to setup? She said she spoke with Leonard Sanchez and said it would start on the east corner and work its way back to the south.

Carol Virden, City Clerk/Treasurer said under Ordinance 8-2-3 on the License Fee to be imposed they fall under the "Temporary Merchant" which is \$500 for the first day and \$300 for each day thereafter. She said Ms. Foster didn't have a problem with that because they didn't know how they would collect from the vendors that were under her umbrella. Carol said it was also her understanding that through the Taxation & Revenue Department, because of her application they would have to file her CRS number. That is how the city would get our gross receipts from them. Carol said there was also discussion with Planning & Zoning that Ms. Foster would provide a layout of the plan for access of emergency vehicles and porta-potties and approval by the Fire Department, Police Department, Planning & Zoning, and Public Works. The City of Ruidoso Downs does not have a fee schedule for this type of activity so they would be recommending to the council tonight that Ms. Foster should place a cleaning deposit which would be refundable and the City of Ruidoso Downs be named as a secondary on their insurance. She said the cleaning deposit is \$500.00.

Councilor Hood asked Mr. Martin what the liabilities were for the city? Mr. Martin, City Attorney asked if the city was asking for any type of temporary insurance? Carol Virden, City Clerk said they would provide the insurance policy with the city named as a secondary. Mr. Martin said as long as there is a liability policy in place and the City of Ruidoso Downs is named as an additional insured they would be fine.

Carol Virden, City Clerk/Treasurer said staff would also recommend that subject to Ms. Foster bringing in those plans, insurance, cleaning deposit, and Temporary imposed fees it will be contingent upon those being brought to city hall.

Councilor Olivo moved to approve request from Betty Foster for use of All American Park for the Arts & Crafts Show on September 5-6, 2009 contingent upon the requirements as recommended. Seconded by Councilor Williams.

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

Mayor Armstrong stated next item on the agenda was Consider Approving FY 2007-2008 Expenditure-Roswell Clinic Corp.-Pre-Academy Physical-Alex Trujillo.

Carol Virden, City Clerk/Treasurer said when Alex Trujillo was hired as a cadet within that one-year time frame in order to be sent to the academy he needed to take a pre-academy physical. When he went to the doctor that the City of Ruidoso Downs contracted with there was a

misunderstanding and they billed Mr. Trujillo instead of billing the City of Ruidoso Downs. The bill is \$217.00.

Mayor Armstrong entertained a motion to approve FY 2007-2008 expenditure.

Councilor Hood moved to approve FY 2007-2008 expenditure to Roswell Clinic Corp. for the pre-academy physical for Alex Trujillo. 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 Wastewater Treatment Plant Operating Invoice for May 2009.

Terri Mosley, Finance Director said they received this invoice on June 16th and that she has gone over this invoice and it was correct.

Mayor Armstrong entertained a motion to approve the Wastewater Treatment Plant Operating Invoice for May 2009.

Councilor Hood moved to approve the Wastewater Treatment Plant Operating Invoice for May 2009. Seconded by Councilor Williams.

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

Mayor Armstrong stated next item on the agenda was Reaffirming Action Taken May 26, 2009- Separation of DPS.

Carol Virden, City Clerk informed Council that because it was questionable of a possible violation of the Open Meetings Act; the prevailing side asks that item be placed on agenda for reaffirming.

Mayor Armstrong entertained a motion to reaffirm action taken May 26, 2009 for the separation of DPS.

Councilor Williams moved to reaffirm action taken May 26, 2009 for the separation of DPS. Seconded by Councilor Hood.

Councilor Williams asked if staff had recommended to the council of what the separation would entail? He said there is nothing in place right now that would warrant this separation. The idea of restructuring which was the initial vote taken at that meeting and said he didn't think they should reaffirm that action because it didn't end up being a part of the preliminary budget. When you are talking about a separation of a department within a city you're talking about the reasons, for one, and two, the affect on the operations of the city concerning the portions of that particular department, and three, the monetary impact concerning the budget. He said we have not had any

information on the impact of the budget because there will be issues that will need to be addressed when it comes to having a separate Fire Department and a separate Police Department. He said they haven't gotten any information passed on to them about 'it will work if we do it like this' and they could get an idea of how it would affect them departmental as a department change. He said the fact that they don't think it is a violation, the fact that when you're considering restructuring something it has to be identified by an item of action. He said it wasn't identified as an item of action, it was under a pretense of preliminary budget approval but it ended up not being a part of that process because it was totally taken out as a separate item to be considered when the motion was made and the second and when the vote was taken. He said as a council member he understood the possibility of the reasons behind it but until they have a clear understanding overall of the affect of it concerning the service the citizens will have from the separation, or lack of possibly, and how it would be run, including manpower. If you are going to lose manpower, because the DPS right now is a part of the Fire Department and so they respond to all emergencies whether they are on duty or not. If you take away the Fire Department from the DPS the police officers become police officers, they are no longer a part of the supporting Fire Department. So, you are going to have to have hiring of additional personnel to man the lack of people that will be gone. Right now there are not enough dependable volunteers that would respond on a regular basis to incidents in the city. He said he would encourage the council members to reconsider the continuation of this until they have a vital plan in place that they can research and understand and consider the good and the bad of how this would affect them.

Councilor Hood said if they do split this he knows of one vehicle that they use in the Fire Department that was on a grant for the DPS. That's already one vehicle that will have to go back to the Police Department and then they would have to buy a vehicle for the Fire Department or receive a grant for it. He said that's already going to affect your budget.

Carol Virden, City Clerk/Treasurer said she didn't believe that the City of Ruidoso Downs had purchased any vehicle under any grant other than what the chief is driving and the previous ones he drove which was under the Law Enforcement Protection Fund. The vehicle that Kenny El lard is driving was purchased through the Corrections Fund for the transport of prisoners to and from here to the Lincoln County Detention Center and should be continued to be used as and not as a firefighting apparatus or vehicle. It was purchased from funds, which are called special funds, in which the Corrections Fund is a special fund.

Councilor Hood asked why the Fire Department was using it now? Carol Virden said she couldn't answer that. Councilor Hood said they need some answers. Carol said to ask Chief Ortiz.

Councilor Hood said he withdraws his second then. Councilor Williams asked him to bring it back for a second. Councilor Hood said he would bring it back then.

Councilor Williams said Chief Ortiz was not here to ask these questions and that he needed to be here to ask these questions and to be able to get these answers and how it will affect them. He said they have plenty of time to do this and they should go through the process of learning about how this is going to affect us and what it's going to take and if it does affect our budget or not. If they

could get that information as council members it would help them make that decision for the benefit of everyone in the city.

Mayor Armstrong said they were reaffirming the vote and that nothing would be changed by reaffirming this at this time.

Councilor Williams said the wording is what concerns him. It stated on the motion that was seconded and voted on was restructuring so if they are to reaffirm that then they are basically going through that process.

Councilor Hood said he would like to withdraw his second.

Carol Virden, City Clerk/Treasurer asked Mr. Martin if Councilor Hood could withdraw his second.

Councilor Holman seconded.

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

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

Mayor Armstrong broke the tie vote with Aye.

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

Mayor Armstrong stated next item on the agenda was Public Input.

Wayne Williams said he has been asking for some time for a full packet. He said he was hoping that some of the council who wants to have all of the information in his possession before he makes a decision, either councilor or the mayor. He said he was hoping he would hear a statement today after all of the times he has asked to the effect that there is a citizen in our town that has been asking for a full packet for months and months and months it would behoove one of the council members or mayor to bring up under Unfinished Business that this needs to be addressed one way or another. Either yes he can get his hands on it or no and this is the reason why. As a citizen of Ruidoso Downs he said he wants to continue to be a concerned citizen but he also wants to be informed. He said if you'll look in the minutes it reads: Governing Body Code of Ethics says that the Ruidoso Downs City Council represents the interests of all the people served by this municipality. If that's the case he said he needs an answer and he wants it in public not in private. He said he wants to know why he can't have a full packet so that he has full information. He said it's embarrassing when he gets up here and asks for information that they have in front of them that he doesn't have or he has a problem with the information they have because he doesn't know what it is. He said he deserves it and is here every single week and he expects the same courtesy that one of our city council members said that he expects a full and complete packet before he can

vote on an issue. He said he wants one of them to bring it up and tell him why and that he is not going away and will be here until he gets it.

Jim Burrow said it has been stated that they need to have our chief here to explain some of the situation and that when you divide departments up like the Fire Department and Police Department you are going to run into trouble like they did several years ago. It has been running real fine and he couldn't see the purpose of changing something when it's good. He said you're going to have trouble with the budget; you're going to have to hire more people. He said he knows they say they aren't going to but they are. He said he has talked about it to other members and the police chief has had enough time to do both jobs but it's already been voted on and he told the councilmen they have made a bad mistake.

Jim Kofakis said he is an employee at the Hubbard Museum of the American West. He said Jay Smith had referenced the exhibit opening on June 13th and said he wanted to personally thank two councilmen that were in attendance. He said they probably saw first hand how the museum operates with their donor base. That exhibit party was at no cost to the city and was fully funded by donors. He said if you were a member of the museum you could have gotten in free.

ADJOURNMENT

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

Councilor Holman moved to adjourn at 6:24 p.m. Seconded by Councilor Olivo.

All were in favor and motion passed.

Tom E. Armstrong, Mayor

ATTEST:

Carol Virden, City Clerk/Treasurer