

MINUTES OF THE CITY COUNCIL  
OF THE CITY OF RUIDOSO DOWNS  
CITY COUNCIL CHAMBERS  
REGULAR MEETING  
FEBRUARY 22, 2010  
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on February 8, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Councilor Olivo 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 Williams
Councilor Holman	Councilor Olivo

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

Also present:

Carol Virden, City Clerk/Treasurer  
Jay Smith, Museum Director  
Steve Dunigan, Planning & Zoning Director  
Cleatus Richards, Public Works Director  
Terri Mosley, Finance Director  
A.C. Ortiz, Chief of Police  
Justin Shaw, Fire Chief  
Zach Cook, City Attorney

APPROVAL OF AGENDA

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

Mayor Armstrong entertained a motion to approve the agenda.

Councilor Olivo moved to approve the agenda. 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 the Consent Agenda.

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

Councilor Williams asked that the Committee Reports be pulled from the Consent Agenda.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF FEBRUARY 8, 2010.

Motion was made by Councilor Williams to approve the Minutes of Regular Meeting of February 8, 2010. Seconded by Councilor Olivo.

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 Williams 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.

APPROVAL OF MONTHLY REPORTS

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

APPROVAL OF COMMITTEE REPORTS

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

Councilor Williams said on the Beautification Committee they do have the Great American Cleanup coming up in March and will be finalizing the date. He said it should be the last weekend in March. They will have an ongoing week-long process that will include two weekends and the whole week for cleanup. This will cover neighborhoods and the community as a whole. He said they would like to thank Dale Graham the Project Manager for attending the meeting and answering questions they had.

Mayor Armstrong entertained a motion to approve the Beautification Report.

Councilor Williams moved to approve the Beautification Report. Seconded by Councilor Hood.

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

There being no one to speak for the other committee reports Mayor Armstrong entertained a motion to approve the Economic Development Board report, Parks and Recreation report, and the Planning and Zoning report.

Councilor Williams moved to approve the other committee reports. Seconded by Councilor Hood.

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-Discussion of Possible Consideration to Approve Agreement for Professional Legal Services Related to the Regional Wastewater Treatment Facility and Joint Use Board.

Councilor Williams moved to approve discussion of possible consideration to approve agreement for Professional Legal Services related to the Regional Wastewater Treatment Facility and Joint Use Board. Seconded by Councilor Hood.

Councilor Williams asked staff why this was brought back to them according to the motion made and approved by council at the last meeting? At the last meeting they wanted to have a postponement to the meeting tonight with the results of the Joint Use Board on the 17<sup>th</sup> to follow up on. Since that meeting was cancelled he said he wanted to find out if they still need to pursue this or if it can wait?

Carol Virden, City Clerk/Treasurer said Councilor Williams was correct and there was a motion made by Councilor Williams to table the agreement for Professional Legal Services related to the Regional Wastewater Treatment Facility and Joint Use Board until the city council meeting of February 22<sup>nd</sup>. The Joint Use Board meeting was cancelled and they will meet after the municipal elections of March 2, 2010. Staff is still recommending that the contract not be approved by the governing body of the City of Ruidoso Downs as currently written. Specifically the contract is flawed in the following regards:

- The agreement for Professional Legal Services must be entered into with the Joint Use Board with Montgomery-Andrews only.

- The provisions we have with Montgomery-Andrews assists in organizational issues of the Joint Use Board. They have been deleted and this must be reinstated.
- The contract as written allows the Executive Department of the Village of Ruidoso to issue task orders. This must be amended to provide that the Joint Use Board must approve all task orders.

Carol Virden, City Clerk/Treasurer said one, two, and three were part of the focal point for the RFP that was issued a few months ago. This is what staff is recommending that they put back. Once they meet with the joint use board, and that will be on the third Wednesday of every month at 10:00, they were hoping that they will put this item on the agenda.

Councilor Williams asked when this comes up with the JUB, and say the agreement is approved for the legal services, then they won't be seeing this come up again on our agenda?

Carol Virden, City Clerk/Treasurer said she would hope that the Joint Use Board would approve the agreement for Professional Legal Services with Montgomery-Andrews with the amendments that they were going to take forth.

Councilor Williams asked if the amendments were added to were they going to have to approve? He said because of the way the Village has approved it "as is" we are asking that we want certain items placed back in which means it will have to come before us again to approve it from our end.

Carol Virden, City Clerk/Treasurer said as you know the members of the Joint Use Board have been accustomed to taking things to their governing body for approval prior to the item or issues coming before the Joint Use Board. She said her question to our mayor and governing body was if they would like to have the governing body make those decisions prior to the Joint Use Board hearing those issues?

Councilor Williams said it has been recommended by staff to say no to this contract which has been approved by the Village on these particular issues that we would like to have reinstated. If this is accomplished with the JUB to our satisfaction it will have to come back to us for approval. It will show that we have what we want in this contract even though we shouldn't have to worry about this contract, it should be a JUB. So, if the JUB says we can have these three items back we should be good to go.

Carol Virden, City Clerk/Treasurer said that is correct.

Councilor Holman said they should then vote for a “no” vote.

Mayor Armstrong said his understanding is that they are asking for our approval of this agreement now. Carol said that is what the Village of Ruidoso is requesting that the governing body of the City of Ruidoso Downs approve the agreement for Professional Legal Services related to the Regional Wastewater Treatment Plant facility and Joint Use Board as written.

Mayor Armstrong said he believes this does not have to be approved as written. With our changes in it, yes. He said he does not want to send the wrong message to them thinking that we are not going to turn it down. He said he wants them to know we are turning it down.

Councilor Hood moved to refuse to approve and send it back.

Carol Virden, City Clerk/Treasurer said along with that because staff is recommending that the contract not be approved by the City of Ruidoso Downs governing body as currently written. Specifically the contract is flawed in the following regards, and that would be one, two, and three.

Councilor Holman asked if this was the same thing that they did at the last council meeting? The same words and same consideration?

Carol Virden, City Clerk/Treasurer said yes.

Councilor Holman said that is the reason he suggested at the last council meeting that they vote “no” instead of tabling it. He said they are right here again at “no.”

Mayor Armstrong asked what the motion was?

Carol Virden, City Clerk/Treasurer said Councilor made a motion refusing to approve the agreement for Professional Legal Services for the Regional Wastewater Treatment Plant Facility based on the recommendation of staff for specifically the contract is flawed in the following regards and that being one, two, and three as written.

Mayor Armstrong entertained a second.

Councilor Olivo seconded.

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

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 Presentation of Keep America Beautiful-2009 Presidents Circle Recognition Award to Keep Ruidoso Downs Beautiful.

Judy Miller, Chairperson of the Keep Ruidoso Downs Beautiful committee said they received this plaque because they are in good standing with Keep America Beautiful. She said they meet all of the requirements. They submit the two yearly reports, they have their cleanups and go to the trainings. They have their grant and are very proud of their little association. She said they need two more members and a whole lot more volunteers. She said they also received an in-kind donation from Keep America Beautiful from Troy Built and it was a straight shaft string trimmer and a backpack blower and they would like for them to demonstrate it during the Great American Cleanup so they need someone who knows how to operate it. She said they will have their cleanup and a recycling event during the same time for a weeks time. She said members of the committee that were also present were Brenda Frost, Jean Proctor, Sebrina Lundquist, and that Deb Dvorak was not here tonight. She said possibly they could get two weekends in there and make more people aware.

Mayor Armstrong said the City of Ruidoso Downs needs to give Judy and all of the members of the Beautification Committee a round of applause.

There was a round of applause.

Mayor Armstrong stated next item on the agenda was Update on City of Ruidoso Downs projects.

Cleatus Richards, Public Works Director said in the parks area they have removed the huge pile of wood chips from the Public Works yard and have spread those out in the Riverside Park area on some of the cut banks to create a base for seeding and to help in drainage control in those areas. He said they had previously demolished the old structure there and are working on erosion control on the slope area. Sierra Contracting has donated a roll-off to assist in removing debris from that building. In the streets work on Highway 70 is nearing completion and they are working on the sidewalk areas and generally cleaning up and filling in some of those areas. They still have drain breaks and barrier railings on the one drain outlet that has to be installed. Hopefully within the next

week that will be complete. On West Drive they have completed all of the grading. They were scheduled to start paving Friday but they had plant problems and now we have snow again. Realignment on North Drive has been completed and they had good cooperation from property owners. There were some areas of encroachment, some on our part and some on their part. Base course is in and it is open to two-way traffic. He said they have met with PNM about moving the poles on Hill Drive and they readily agreed to move the poles to meet our realignment. Dennis Engineering has completed the preliminary plans and phasing for the Agua Fria sewer system. The total estimated cost is now \$6,200,000 and is to be completed in five phases. The first phase is estimated at about \$850,000 and they have filed a request for special appropriations through Senator Udall's office. Wilson and Company has completed a preliminary sewer report for realignment repair on the interceptor line through Ruidoso Downs to the Regional Wastewater Treatment Plant. The out of river option is estimated at \$3,805,646 and that is the recommended option to follow. That will be funded through FEMA. On our FEMA projects they have acquired approval from the Corps of Engineers and Environment Dept. for the plans and bidding on the Friedenbloom and Joe Welch bridge so the construction plans are in the final phase of approval for those two bridges and also on Highland Lane they hope to open bids on those projects about March 31<sup>st</sup> of this year. On the Regional Wastewater Treatment Plant the completion of Phase I has now been fully approved by the Joint Use Board, Ruidoso, and Ruidoso Downs. Molzen-Corbin proposal for preparation of the operation and maintenance manual still remains unresolved and probably won't be addressed again until they meet again as a Joint Use Board.

Mayor Armstrong stated next item on the agenda was an update from the City Attorney on the Ruidoso Downs Racetrack and House Bill 203.

Zach Cook, City Attorney said House Bill 203 passed through the house unopposed and it made it to the Senate so they are waiting on the governor's signature. The bill give counties where racinos are the ability to put it on the ballot to allow the voters to decide whether or not to increase gross receipts tax. The bill allows up to a ¼ %. The word going around was that Lincoln County would only use a 1/8 %. Ultimately it will be up to the county commission. If the people vote to do that it allows the racetrack to claim up to a \$750,000 tax credit and that would be sometime in 2011. He said there is a five-year sunset on the measure but the county can put a stop to it before five years and if the racetrack leaves the county the racetrack loses the tax benefit.

Mayor Armstrong stated next item on the agenda was introduction of the new transit manager.

Patty DeSoto said she has been with the transit office for one week now and hit the ground running. She thanked the mayor and governing body for this opportunity and looked

forward to working with the staff. She said if they have any questions, ideas, or concerns to not hesitate to call her.

### NEW BUSINESS

Mayor Armstrong stated next item on the agenda was New Business-Consider Approving Mayor's Alternate appointment to Joint Use Board-Cleatus Richards.

Mayor Armstrong said the alternate for him as the mayor is the mayor pro tem and Carol is the other voting delegate on the Joint Use Board. In the last couple of weeks Carol has not been able to leave because of the elections and can't always be there so he said he wanted another alternate for when she can't be there. He said every meeting is so important and it is important that we keep our vote.

Mayor Armstrong entertained a motion to approve Mayor's alternate appointment to Joint Use Board-Cleatus Richards.

Councilor Olivo moved to approve Mayor's alternate appointment to Joint Use Board-Cleatus Richards. 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 Presentation of United States Census 2010-Hilda Ortega, Partnership Assistant.

Hilda Ortega said they are trying to get information to everyone about the 2010 Census. She said back in 2000 only 39% reported and therefore they did not get the money allocated for Lincoln County. She said they are really trying to push it and they are doing it in phases. The first phase is to get businesses to help them with publications, volunteer work, or whatever it may be. The next phase was the questionnaire site. This is where they select five different areas in Lincoln County where if anyone needs to come in and ask a question about the forms that will be coming out they have Census forms there. Everything is personal and confidential. She passed out a form to the governing body. A third thing they are doing now is getting a complete count committee. These are volunteers in the community and they need about eight people. They would volunteer two hours a month in helping them get events going and donations to do the events. Hilda said they won't send a Census form to PO Boxes. They will have people drop the form by the houses and then make another contact to find out why they have not returned the form. This will be happening from May through July. What the Census means is \$1,000 per person per year for the next ten years. The Census will also bring jobs for people at \$10 an hour and .55 per mile. There is a test to pass and a background check.

## 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 was a member of the citizens committee and would like to thank the mayor and councilors for supporting the candidate's forum. He also thanked Jay Smith for a great job in preparing this event. The Cope Learning Center was a perfect setting for this event. Speaking on behalf of the citizens committee he thanked Steve Dunigan for his concerns of their requests this last meeting. He said this next item he received several phone calls on. He said he would also like to thank the mayor and Cleatus and his crews for the gravel around mailbox clusters. Their next meeting will be held on April 10<sup>th</sup> with the time and place yet to be decided but all citizens of Ruidoso Downs welcome to attend.

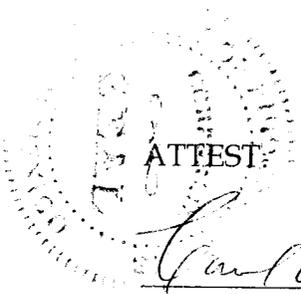
Judy Miller said she wanted to make a few statements about the forum for the candidate's that were held in the last two weeks. She said she thought they need the facts given. She said she wanted to thank the citizens committee for putting on the forum at the museum and everyone that helped, Jay and the city. It is very necessary and said she had been going to forums here since 1992 when she first got elected. This was a very fair forum. She said she would like the reporter Mr. Kalvelage to know how the forum committee was picked from the candidate's. Every candidate was given a piece of paper and their picks were on the candidate form. It was not biased. She said it was a disservice to our citizens to say words that were printed on the front of the paper but the reporter needs to get the facts. The candidate's that didn't show up went to a forum by the Green Committee in Agua Fria where no media and no residents were allowed. She said, "talk about bias, that's it." She said she appreciated the people doing this and they don't have an Auxiliary anymore and concerned citizens should be in every town. There should be a citizens committee for the elderly, for the youth, for everything, and to keep people on their toes. It is their town, the residents own the town. She said this forum was very fair and as for the candidates that didn't show up she said shame on you.

## ADJOURNMENT

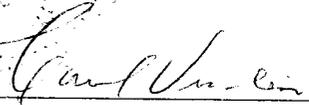
There being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

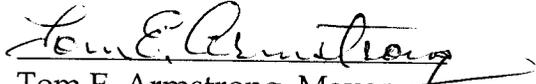
Councilor Williams moved to adjourn at 6:19 p.m. Seconded by Councilor Hood.

All were in favor and motion passed.



ATTEST

  
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Carol Virden, City Clerk/Treasurer

  
Tom E. Armstrong, Mayor