

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS ORGANIZATIONAL
REGULAR MEETING
MARCH 8, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on March 8, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. He stated the first item was the Oath of Office to Newly Elected Officials and Presentation of Certificates of Election. Mayor Armstrong asked Harrold Mansell, Municipal Judge to administer oath to newly elected officials Dean Holman and Tommy L. Hood.

Harrold Mansell, Municipal Judge asked Dean Holman to raise his right hand and to say his name when asked and to repeat after him the Oath of Office as follows:

I, Dean Holman, having been elected to the office of City Councilor, and the City of Ruidoso Downs, State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and laws of the State of New Mexico, and faithfully and impartially discharge the duties of said office to the best of my ability so help me God.

Harrold Mansell, Municipal Judge asked Tommy Hood to raise his right hand and to say his name when asked and to repeat after him the Oath of Office as follows:

I, Tommy Hood, having been elected to the office of City Councilor, and the City of Ruidoso Downs, State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and laws of the State of New Mexico, and faithfully and impartially discharge the duties of said office to the best of my ability so help me God.

Mayor Armstrong stated the next item was the Organization Meeting of the Governing Body for the City of Ruidoso Downs, New Mexico.

Mayor Armstrong stated the first item was In Accordance with NMSA 3-12-3A, the Governing Body shall elect one of its members to act as Mayor Pro Tem in the absence of the Mayor.

Councilor Olivo moved to nominate Councilor Holman as Mayor Pro Tem. Seconded by Councilor Williams.

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

Mayor Armstrong asked City Attorney Zach Cook to read. Reading of Rules of Debates from the City of Ruidoso Downs Municipal Code of Ordinances 1-3-2 (E) Rules of Debates 1 through 7.

Zach Cook, City Attorney read the Rules of Debates as follows:

Rules of Debate from City of Ruidoso Downs Municipal Code of Ordinances 1-3-2 (E) rules of Debate 1 - 7:

1. Mayor: the Mayor may not make and/or second motions, but may debate from the chair and shall have all the privileges of the members of the Governing Body, except that he/she shall only vote when there is a tie.
2. Councilors: Each Councilor desiring to speak shall address the presiding officer and after being recognized, confine himself/herself to debate, avoiding personalities and indecorous language.
3. Interruption: A Councilor having been recognized shall not be interrupted except to call him/her to order. If called to order, he/she shall cease speaking until the point of order is decided after which he/she may proceed.
4. Closing Debate: The Councilor moving the adoption of an ordinance or resolution shall have the privilege of closing debate.
5. Reconsideration: A motion to reconsider any action taken by the Governing Body shall be made on the day such action was taken. Such motion shall have precedence over all other motions except a motion to adjourn and shall be debatable if the motion it refers to was debatable. The motion to reconsider may be made only by a member who voted with the prevailing side.
6. Statement in Minutes: A member of the City Council may request the privilege of having his/her statement on any subject under consideration entered in the minutes subject to the consent of the Governing Body, providing that any member shall have the right to cause his/her reasons for dissent or protest against the action of the board entered in the minutes without consent.
7. Issues not Covered: Robert's Rules of Order Newly Revised shall be used by the City Council in determining any issue not covered by this section.

Mayor Armstrong stated next item on the agenda was Pursuant to Article 4, Chapter 1-4-2 Appointments; Terms, Appointed officers and Special Committee Officers shall be appointed by

recommendation of the Mayor and confirmed by City Council at Organizational Meeting held every two (2) years following regular municipal elections.

1. In accordance with law, the mayor shall submit, for confirmation by the Governing Body, the name of the persons who shall be employed to fill the appointive offices of City Clerk/Treasurer, Chief of Police, and City Attorney.

Mayor Armstrong said he gives the name Carol Virden for City Clerk/Treasurer.

Mayor Armstrong said he gives the name Alfred Ortiz for the Chief of Police.

Mayor Armstrong said he gives the name John Underwood Firm for City Attorney.

Mayor Armstrong entertained a motion to approve these appointees.

Councilor Holman moved to accept Mayor's confirmations to fill appointive offices. Seconded by Councilor Olivo.

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

Mayor Armstrong asked Harrold Mansell, Municipal Judge to administer oath to newly appointees to appointive offices.

Harrold Mansell, Municipal Judge asked Carol Virden to raise her right hand and to say her name when asked and to repeat after him the Oath of Office as follows:

I, Carol Virden, having been appointed to the office of City Clerk/Treasurer, in the City of Ruidoso Downs, State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and laws of the State of New Mexico, and faithfully and impartially discharge the duties of said office to the best of my ability so help me God.

Harrold Mansell, Municipal Judge asked Alfred Ortiz to raise his right hand and to say his name when asked and to repeat after him the Oath of Office as follows:

I, Alfred Ortiz, having been appointed to the office of Police Chief, in the City of Ruidoso Downs, State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and laws of the State of New Mexico, and faithfully and impartially discharge the duties of said office to the best of my ability so help me God.

Mayor Armstrong stated next item on the agenda was Approval of Resolution No. 2009-27 Open Meetings Act. A resolution setting forth notice provisions for notices of public meetings of the Governing Body of the City of Ruidoso Downs.

Mayor Armstrong entertained a motion to approve Resolution No. 2009-27.

Councilor Williams moved to approve Resolution No. 2009-27. Seconded by Councilor Hood.

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

Mayor Armstrong stated next item on the agenda was Appointment of City Special Committees and Boards.

Mayor Armstrong said they were listed here and he would like for the appointments to go for all. If the councilors would like to pull out one of them or talk about anything they will.

Councilor Holman asked if they wanted to address any of them or information then that would not be a part of the voting? He said under Item F-Budget and Finance Council-Subcommittee he would like them to consider adding additional members to that subcommittee which would consist of qualified and experienced citizens of our community of at least two to be a part of that committee.

Councilor Hood said since they are not in the delegate body of the City of Ruidoso Downs he did not think they could sit in on a finance committee, a budget committee.

Councilor Holman asked Mayor Armstrong to check into that. He said he wasn't asking for a vote tonight but for consideration.

Mayor Armstrong entertained a motion to approve his appointments to various committees and boards.

Councilor Olivo moved to approve Mayor's appointments to various committees and boards. Seconded by Councilor Hood.

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

Mayor Armstrong stated next item on the agenda was CALL TO ORDER.
Mayor Armstrong called the regularly scheduled meeting to order.

Mayor Armstrong asked Jay Smith, Museum Director to lead the Pledge of Allegiance.

Mayor Armstrong asked Carol Virden, City Clerk/Treasurer to take roll call. The following were present:

Councilor Olivo	Councilor Williams
Councilor Holman	Councilor Hood

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

Also present:

Carol Virden, City Clerk/Treasurer
Harrold Mansell, Municipal Judge
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. He said he was going to take out Item 13 B and Item 13 C.

Mayor Armstrong entertained a motion to approve the agenda with those changes.

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

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Aye; Councilor Holman, Aye; Councilor Hood, 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 Olivo moved to approve the Consent Agenda. Seconded by Councilor Williams.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF FEBRUARY 22, 2010.

Motion was made by Councilor Williams to approve the Minutes of Regular Meeting of February 22, 2010. Seconded by Councilor Olivo.

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

PUBLIC HEARING: ORDINANCE No. 2010-01

AN ORDINANCE AMENDING CHAPTER 6 "MORALS CONDUCT AND CRIMINAL CODE ON GENERAL OFFENSES" ARTICLE 9 "ANIMAL CONTROL" SECTIONS 1 THROUGH 20 OF THE CITY OF RUIDOSO DOWNS CODE OF ORDINANCES AND ENACTING NEW SECTIONS 1 THROUGH 22 TO CHAPTER 6 "MORALS CONDUCT AND CRIMINAL CODE ON GENERA OFFENSES" ARTICLE 9 "ANIMAL CONTROL."

Mayor Armstrong said he hereby opened the Public Hearing for comments and would be accepting in the following order. Interested persons must approach the podium one person at a time, state their name, and present their testimony. A time limit of threes minutes will be allowed per person.

Mayor Armstrong asked if there was anyone present to speak in opposition of the action?

Susan Garrett said she had additional copies to hand out of what she was going to read. She read as follows:

Mayor and council: we would like to voice the following concerns regarding Animal Control.

1. The ordinance rules out Animal Control to enter a private property for as small an infringement as not wearing a City tag. My property is private and not to be entered unless there is a dire situation. A lack of City tag does not constitute such. My gates are padlocked for a reason and are to remain so. Dogs confined to their yards do not

always wear their collar. My property is not to be entered by Animal Control unless we have been contacted previously.

2. There is no section requiring the Animal Control Officer to contact a resident regarding a violation before action is taken. We realize that in the case of a dog bite that may not be possible. Most situations can be resolved through personal contact with the owner. Drug dealers will have more rights than this ordinance gives an animal owner.
3. Fines should be specified not open ended.
4. This is notice that should you ever feel the necessity to remove my dog from my property he is to be taken to Thundering Paws and the charges will be covered by us. We will never allow our animal to be taken to the pound.
5. Since we are enacting new ordinances might we suggest that all cats & dogs be micro-chipped. Ownership would never be in question. I assume that our City has the ability to read the microchips since many residents have already micro-chipped their animals.

We have experienced harassment in the past and will not tolerate our animal becoming a pawn in the political scene. All Animal Control Ordinances need to be equally enforced. To date this has not been the case.

The copy was signed:

Sincerely,
Terry W. Garrett
Susan J. Garrett

Charlotte Lord said the following:

1. I disagree with 90% of these.
2. We need to put these "laws" on a ballot and allow the citizenry to vote on them. If a petition is needed we will get it.
3. Making "Dog at Large" a crime goes against the law of the State says the Attorney General and local governments have to abide by the State law.

4. Collecting revenue fro your coffers is not adequate excuse for subjecting the citizenry to outrageous fines.

The copy was signed:

Charlotte Lord

Ellen Bizzell said the following:

Ellen Bizzell said she was a pet owner and really didn't like all of the rules they were trying to enforce at this time. She said she would like to suggest that they table it or allow a committee to be formed to review some of these rules and go back over them. The fee structure, there isn't one. It seems determined to be whatever you want and that is not right. It does seem that at some times we could be harassed. She said when she comes home most of the dogs are barking. She said she was a little nervous about this and would like to see a fine structure and not just predetermined as to what everyone sees fit and for it not to be too high. Some of these people may or may not be able to afford all of this. She asked if her dog was to be picked up and put in the pound would they assume the medication? When you talk about contained or enclosed boundaries she said she has private property that isn't always going to be contained or enclosed and in fact is where she parks her vehicle. That is so her dog can come out and get into the vehicle. Is it a vicious dog or is her dog just protecting the property? That needs to be stated a little bit more. If you are going to make the dogs do certain things the cats should be involved with that just as well. She said for safety you don't want the cats to have collars in case they get strangled jumping over a fence or something. She said there are several things to look at and again suggested that they form a committee and let the citizens give their input.

Wayne Williams said the following:

Wayne Williams said he didn't know how they were going to handle this problem with the animals but in the last few years they have phoned in so many complaints about animals coming into the yard. One of them actually had his mother-in-law who just recently passed away blocked on her front doorstep where she couldn't get off. He said something has to be done and repeat offenders are going to have to treated different. He said he just doesn't have the time to call the City every time a dog comes into his yard or threatens him when he is out walking. The only alternative he has is to call the City and in eight years it still goes on. It's not the lady that picks up the dogs fault. She picks them up and it still goes on. There has got to be a solution to this problem and the only ones that can make a solution to that problem is you folks sitting up here. He said he

didn't even have a good suggestion but the next time a dog comes out and threatens him on his property or even if he is walking on the street he said he was going to defend himself. He said he didn't know how that was going to go with the laws of this state but to be honest he didn't really care. He said if he was going to be attacked by an animal or barked at or threatened he was going to protect himself. He said he would suggest that these rules and changes will do something about this problem and that they pass them.

Mayor Armstrong asked if there was anyone here to speak in support of the action?

There was no one present to speak in support of the action.

Mayor Armstrong said he would therefore close the Public Hearing.

Mayor Armstrong entertained a motion to adopt Ordinance No. 2010-01 Animal Control Ordinance.

Councilor Hood moved to table this until they get all of the corrections and listen to all of the advice of the people who got up and spoke against it.

Councilor Holman said this has been covered over and over and over. The ordinance that is being presented tonight most of them are in the old ordinance and have been on the books for ten years. He said he would counter that proposal and make a motion that they approve the ordinance.

Mayor Armstrong said they have a motion on the floor right now.

Councilor Williams said he would second that motion.

Carol Virden, City Clerk/Treasurer said that Councilor Williams seconded the motion made by Councilor Hood to table until they can get further information.

Councilor Hood said in the package they got tonight had a lot of red revisions in it and they need to see the revised copy all in one legal document. He said they also need to take into consideration all of the people who got up and spoke against this.

Councilor Williams said they need to elaborate on specifically what the councilors are tabling and what they are talking about tonight and what their intentions are going to be. The last time they talked about this was in July of 2009 and it's been over six months before they have seen it now. He asked if it was going to be another six months?

Mayor Armstrong said it needs to be addressed by the next meeting.

Councilor Williams said if that is so and to get the full consensus and it does have some good provisions in it but there are some that are questionable and do need to be talked about and discussed. When they receive a document it needs to be complete and final document so they don't continue to change.

Councilor Williams said he would ask the councilor to change his verdict to postponing instead of tabling. He said he didn't know what time frame they were looking at. If they postpone it indefinitely then it kills it.

Carol Virden, City Clerk/Treasurer said the Animal Control Ordinance has been before the governing body several times. She said she had been assured that the changes made in this final document was the final document until this afternoon during their Staff Meeting. She said the Chief wanted to make changes to the ordinance to address the definition of "animal" and also to address the definition of "Animal Control Officer." Also, there is on page 7 and 8 where it has the language of "peace officer" and there is language where it talks about "police officer." It was the recommendation of Chief Ortiz to keep the language of "peace officer" consistent throughout the Animal Control Ordinance.

Councilor Williams said the reason he concurs with that motion is that he had a lot of questions and wanted to some information into this document too. He said he wanted to confab with the councilors and the staff and the public with ideas so they can get this done so the citizens can see that they are working on it.

Councilor Hood said he would amend his motion to postpone until such time as the Animal Control Ordinance is in its completeness.

Councilor Holman said the only problem he hears is that it has to do with definitions. He asked if that was the only problem?

Chief Ortiz said that point was made to be consistent throughout the document rather than to interchange "police officer" with "peace officer" and to be consistent. This is inclusive of all peace officers that may assist our Animal Control Officer to perform her duties as well. He said there were some other changes made from the old document from "village" to "city."

Councilor Hood said he would like to see a fee structure. Since they are going to put in how much licenses are for cats and dogs and senior citizens were they going to put in this document what the fee will be if they have to pick up a cat or a dog?

Zach Cook, City Attorney said they have been working on this for nine months and if the councilors were still having problems with this that is part of the Public Hearing. If there are

still issues this is where they look at what is presented and make changes here. He said they could postpone it and discuss the issues but he would suggest that the councilors that have suggestions for changes that they talk to the staff and then have a meeting together to hear what the concerns are.

Councilor Hood said he wouldn't mind having an open meeting because he got a lot of calls this weekend.

Zach Cook, City Attorney said if they were to have a quorum then they could have a work session and would have to coordinate it so that they follow the Open Meetings Act.

Councilor Williams said he would want to have it with the councilors involved with staff and discussion over what they think would be a good addition to something or a subtraction to something. That way when they present themselves in a meeting which is a business meeting they say yes or no and then they don't have to continue and say they want this or that changed. That is the process the citizens expect.

Mayor Armstrong said there was a motion and a second.

Councilor Holman said they need a closing date and not left open-ended and have it by next council meeting.

Councilor Olivo said he didn't think they could have it by then.

Councilor Hood said he didn't either.

Councilor Williams said two weeks to him would be acceptable and then they could have another Public Hearing.

Mayor Armstrong said he would allot a month. He asked staff if they could meet with councilors?

Carol Virden, City Clerk/Treasurer said she believed Councilor Hood was going to ask for his postponement to be at such time that the Animal Control documents were complete and that until such time would be the Council Meeting of April 12th.

Councilor Hood said that would be more than a month.

Carol Virden, City Clerk/Treasurer said their legal staff member had suggested holding a workshop session so all the councilors, mayor, and staff can work out and come out with a

document that is going to be suitable to the governing body to adopt at the April 12th meeting. She said the mayor will name that date and she will issue appropriate notices.

Councilor Holman said to Chief Ortiz that he was head of that department and if this was set within a years' time would he be able to handle that by the end or would that be too much coming at you too fast?

Chief Ortiz said that would give them enough time to go back and look at it and make recommendations to staff.

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

Harrold Mansell, Municipal Judge asked if the current ordinance is in effect until the changes were made?

Mayor Armstrong said yes.

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was 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.

Mayor Armstrong stated next item on the agenda was Official Certificate of Canvass of the City of Ruidoso Downs Regular Municipal Election held Tuesday, March 2, 2010.

Carol Virden, City Clerk/Treasurer said that is just for information for the mayor and council.

Councilor Olivo said there were some citizens that stated we have a new well and cannot pump water out of it due to water rights. He said 2003 Councilor Sue Garrett went to Santa Fe and we paid over \$50,000 for that well. Does that mean we can't use the well at all? He said some people got this letter and it said they can't pump water out of this well.

Cleatus Richards, Public Works Director said they are working on more water rights out of that well. When they start watering the park they will be pumping water out of that well and that pumping could go to residents tanks. He said when they get all of the supplemental water rights worked out it will supplement the Springs water.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was New Business-Consider Acceptance of Dedication of Road Right-of-Way.

Steve Dunigan, Planning & Zoning Director said the City of Ruidoso Downs has been presented with a request to accept a dedication of an existing road which is currently an easement. This is an improved road that has been inspected by Public Works and the staff has looked at where our utility lines fall within this proposed right-of-way and everything is fine there. The road itself is the entrance and easement road of a private drive currently that goes by Pine Springs Best Western off of Highway 70. So it is a replat and dedication of the right-of-way has been prepared by their agent which is D.T. Collins and Associates and all surrounding owners are in support of this as reflected by all of the signatures. With the acceptance by the City the already improved road would become the City's. It would be a 50 foot wide road and utility easement that is in place and with this they could move on with further development beyond that motel.

Mayor Armstrong entertained a motion to approve the dedication of road right-of-way.

Councilor Hood moved to approve the dedication of road right-of-way. Seconded by Councilor Holman.

Councilor Williams asked how long of a road it was?

Steve Dunigan, Planning & Zoning Director said the existing road ends at the driveway of the Best Western Pine Springs Inn and from Highway 70 it is several hundred yards.

Councilor Williams said he saw the name Mira Loma on here so that road would be a possible addition to the subdivision if that came about?

Steve Dunigan, Planning & Zoning Director said there was going to be a recommendation to name that road Mira Loma Drive. All property owners have already approved that change from Pine Springs Drive.

Councilor Williams asked if it was an access road between DiPalo and this new road over here? Is it a short cut between those two roads?

Steve Dunigan said no.

Councilor Williams asked if that was a consideration?

Steve Dunigan said that is a proposed substation and water tank but those were future considerations.

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

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.

There was no Public Input.

ADJOURNMENT

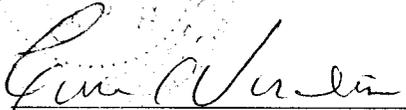
There being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Williams moved to adjourn at 6:26 p.m. Seconded by Councilor Holman.

All were in favor and motion passed.



ATTEST:



Carol Virden, City Clerk/Treasurer



Tom E. Armstrong, Mayor