

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
APRIL 12, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on March 22, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Wayne Williams 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 Holman

Councilor Williams
Councilor Hood

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

Also present:

Carol Virden, City Clerk/Treasurer
Steve Dunigan, Planning & Zoning Director
Cleatus Richards, Public Works Director
Terri Mosley, Finance Director
A.C. Ortiz, Chief of Police
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 Holman.

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

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

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

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

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 Williams and seconded by Councilor Holman to approve Accounts Payables.

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

PUBLIC HEARING ORDINANCE NUMBERS 2010-02 AND 2010-03

Mayor Armstrong said the first ordinance was:

A. ORDINANCE NO. 2010-02

An Ordinance Amending Chapter 9 Zoning and Land use Articles 10, Division 2. Administration Section 31 Titled "Planning Commission of the City of Ruidoso Downs Code of Ordinances.

9-10-31 Planning Commission

- (b) Membership; appointment of members; compensation of members.
- (c) Terms of members.
- (d) Officers; meetings and rules of procedure.

Steve Dunigan, Planning & Zoning Director said the change that is being recommended is one that takes the membership level back to 5 members. Currently they are at 9 members and this is an effort to remain consistent and have members show up to meetings. He said the thought is to take it back to where we were pretty sure of having a quorum. Citizens coming to a P & Z for a hearing want to be assured of having every opportunity to have their case heard and have a quorum. He said they have never had 9 and now it's down to 6 and what they want to do is bring it to what it was originally and it was stated in the

Articles at 5 members. He said he thought it was appropriate for the size of our community.

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 at a time, state their name, and present their testimony. A limit of three minutes will be allowed per person.

Mayor Armstrong asked if there were any persons here to speak in opposition of the action?

There was no one to speak in opposition of the action.

Mayor Armstrong asked if there were any persons here to speak in support of the action?

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

Mayor Armstrong said he hereby closed the Public Hearing on Ordinance 2010-02.

Mayor Armstrong entertained a motion for the adoption of Ordinance 2010-02.

Councilor Olivo moved to adopt Ordinance 2010-02. Seconded by Councilor Williams.

Councilor Williams said he had discussion on the last sentence in paragraph B He quoted: "Members of the Planning Commission shall serve without pay of any kind except actual expenses." He asked what that dealt with?

Carol Virden, City Clerk/Treasurer said it means if the Planning & Zoning Commission attends a Planning & Zoning meeting their expenses for hotel and lodging and meals would be paid.

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

Mayor Armstrong said the next ordinance was:

B. ORDINANCE NO. 2010-03

An Ordinance Amending Chapter 2, Article 4, Section 2 Titled "Appointments" of the Local Economic Development Act of the City of Ruidoso Downs Code of Ordinances.

2-4-2 APPOINTMENT

Carol Virden, City Clerk/Treasurer said there was a recommendation from Paul van Gulick, the Chairman of the Economic Development Board that they reduce the number of members from 10 to 7 for the same reasons that Mr. Dunigan gave to be consistent for a small community such as ours. In the last two years there hasn't been a full 10-member board on the Economic Development Board.

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 at a time, state their name, and present their testimony. A limit of three minutes will be allowed per person.

Mayor Armstrong asked if there were any persons here to speak in opposition of the action?

There was no one to speak in opposition of the action.

Mayor Armstrong asked if there were any persons here to speak in support of the action?

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

Mayor Armstrong said he hereby closed the Public Hearing on Ordinance 2010-03.

Mayor Armstrong entertained a motion for the adoption of Ordinance 2010-03.

Councilor Williams moved to adopt Ordinance 2010-03. Seconded by Councilor Olivo.

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

UNFINISHED BUSINESS

Mayor Armstrong stated next item on the agenda was to Unfinished Business-Consider Adopting Ordinance No. 2010-01 Animal Control.

Councilor Olivo moved to adopt the ordinance that was presented to them by staff with the changes that have been made to it by them. Seconded by Councilor Holman.

Councilor Hood said when they went through the workshop he was under the impression that they were going to do some modifying to this.

Councilor Olivo said this ordinance has been in affect since 1993. Now we had a letter from one of our citizens that stated that the new ordinance allowed the Code Enforcement officer could go in there to check for tags, which is wrong. He doesn't go in there just to check the dog for tags. That's why a lot of people are mad because they think if we pass this ordinance here Peggy will just go in the houses and check if the dog has a license and if not they fine them for it. And the only change that was made on that was in 2003 and that was on vaccinations.

Councilor Hood said that was fine but the ordinance we have in front of us it's got lines crossed out and everything. It's not an official document.

Councilor Olivo said that was the corrections that were made.

Councilor Hood told Councilor Olivo that is was still not an official anytime it has lines stricken out of it and in red it's not an official document.

Mayor Armstrong told the councilors there was a motion and a second.

Councilor Williams said we aren't done discussing are we?

Mayor Armstrong asked if there was any other discussion?

Councilor Williams said they have the consideration of adopting Ordinance No. 2010-01. He said I have two versions here. Which one do I adopt?

Carol Virden, City Clerk/Treasurer said the original Ordinance 2010-01 An Ordinance Amending Chapter 6, "Morals Conduct and Criminal Code on General Offenses" Article 9 "Animal Control" Sections 6-9-1 to 6-9-20 of the City of Ruidoso Downs Code of Ordinances and Enacting new Sections 6-9-1 to 6-9-22 of Chapter 6, "Morals Conduct and Criminal Code on General Offenses, Article 9 "Animal Control" Ordinance.

Carol Virden, City Clerk/Treasurer said that original ordinance was placed in the Ruidoso News as a legal on February 17th. In order to have the governing body conduct a Public Hearing at the regular meeting that was scheduled for Monday, March 8th. On March 8th the council postponed the adoption of Ordinance 2010-01 to allow a work session to be held to review and discuss the Animal Control Ordinance. On March 22nd Mayor Armstrong did place on the agenda to come up with a date and time for the work session. That work session was held on April 1, 2010 at 5:00.

Carol Virden, City Clerk/Treasurer said they do have two versions. Version two, and Ordinance Amending Chapter 6, "Morals Conduct and Criminal Code on General

Offenses" Article 9 "Animal Control" Sections 6-9-1 to 6-9-20 of the City of Ruidoso Downs Code of Ordinances and Enacting New Sections. She said there are brackets in red 6-9-1 to 6-9-25 of Chapter 6 "Morals Conduct and Criminal Code on General Offenses" Article 9 "Animal Control" ordinances.

Carol Virden, City Clerk/Treasurer said at the April 1st work session Councilor Williams did have suggestions to be combined with the original proposed Animal Control Ordinance. That is your document two. Because the number of sections have increased and she said she didn't know where the council wanted to go with this but the Notice of Intent for the Public Hearing that was given on March 8th was only for 22 sections. If the council so chooses to have a Public Hearing on the second document of the Animal Control Ordinance with 25 sections that notice has to be given to the public to allow them the opportunity to review the changes that were made to the original document.

Councilor Williams said the Public Hearing needed for the second version, should we go through that Public Hearing process to allow the citizens to have input on the additions that have been included on this second and to see if there is agreement or no agreement or dissent or no dissent. What this is for is for the citizens of this community and they should have a voice in it just for that purpose and as a governing body they should allow that.

Mayor Armstrong said the governing body did have a Public Hearing on it. We added some of the other items that came out of that Public Hearing so that was incorporated into the very first one.

Councilor Williams said the very first one?

Mayor Armstrong said well, the one that we're looking at right now.

Councilor Williams said we're looking at two of them. We're not looking at anything in the agenda that says 2010-01 Sections-this one or this one. It says 2010-01 and we have two documents for 2010-01.

Carol Virden, City Clerk said if you will recall on the March 8th Council meeting Ordinance 2010-01 Animal Control Ordinance with those amendments were tabled for the first meeting of April 14th. During that process Mayor Armstrong did call for a workshop and it was cancelled so that all of the members of the governing body could be in attendance. Mayor Armstrong did place on the agenda of March 22nd asking that each and every individual governing body member for a date and time where they would be available for a work session and that was April 1st for discussion and review of the ordinance.

Councilor Williams said it's the original ordinance we're discussing; in reference to the old 6-9-11 Dogs Trained to Assist the Blind Allowed in Public Places it cites New Mexico State Statute 77-1-14, 1978. He said 77-1-14 has been repealed so if that's been repealed this paragraph is non-existent which is in the original ordinance that you are considering adopting tonight. If we do that we did not investigate thoroughly this omission within this document before we decided to continue on. When something is repealed it means that statute goes away. So that reference to that statute for this paragraph is non-existent so what basis do we have for that carry over?

Mayor Armstrong asked if he had looked at the Animal Control Ordinance, the one we're discussing now?

Zach Cook, City Attorney said if you want to keep that in you don't have to reference any of the State Statute and I understand it's been repealed and probably shouldn't be in there. The bottom line is "it shall be unlawful for any person owning, operating or maintaining" and just the language of that section.

Councilor Williams said still we cannot go through with it at this time.

Mayor Armstrong said there is a motion and a second if there is no other discussion.

Councilor Williams said he could discuss it all night long mayor before you get it through your head that this is not legitimately going to be passed tonight because it's not a document for us in a complete form because we have a document here that says something different and should be given the opportunity to have this information implemented in the new ordinance. Why are we scared of implementing some of that suggestion into this new ordinance? Why are you resisting mayor?

Mayor Armstrong said I don't think we're scared to put it in, I just do not feel that some of it is needed. I don't think, coming from some of our people, if it's not broken you don't need to fix it. It has never been a problem. We have never been sued for anything that was in our Animal Control Ordinance and I would ask our attorney.

Zach Cook, City Attorney said the main issue that I saw at the meeting was the issue of entering private property and I was asked to do some more research and I have. That's one thing that I would like to change in the ordinance that we're considering. I have a simple fix. It's 6-9-6 Impounding of Animals. It basically allows an Animal Control officer or other Police officers to go inside a property and impound a dog. I would recommend making a change to that with a simple striking of some language and adding of others if you would like me to read what my proposal is. On "A" what I am suggesting is that section say:

"If the Animal Control officer or any other Peace officer has probable cause to believe that a dog or cat is in violation of any provision of this article and poses an imminent threat to public safety, the Animal Control officer or other Peace officer may apply to Municipal Court or any other court of competent jurisdiction in the county for a warrant to seize the animal."

Zach Cook, City Attorney said as written here I don't believe it would be constitutional. I think it would be unreasonable search and seizure to just go onto someone's property if you think the animal doesn't have a tag so those languages I just read would cover that. It puts a burden on the City and Animal Control officer or any other Peace officer to go to court but it covers the City in the long term for any civil rights violation. There's a lot of policy issues that have been raised so I don't know where you want to go with that, where the governing body wants to go with that but that is my recommendation on the issue of entering private property.

Zach Cook, City Attorney said what I am proposing is 6-9-6 "A" that it state: "If the Animal Control officer or any other Peace officer has probable cause to believe that a dog or cat is in violation of any provision of the article and poses an eminent threat to public safety the Animal Control officer or another Peace officer may apply to the Municipal Court or any other court of competent jurisdiction in the county for a warrant to seize the animal."

Councilor Hood asked if we can have that in official form? It's not in writing here. I don't think we should vote on an ordinance that's going to affect the City if we don't have it in official capacity here.

Councilor Holman asked how that was going to affect the Animal Control officer if for one example: a dog running at large goes onto private property and there's been reasonable suspicion and probable cause that that dog may have rabies? Is the Animal Control officer going to be able to enter that property or will the Animal Control officer have to stand in the middle of the street and determine whether or not that dog actually does have rabies or not? In other words a vet couldn't even do that.

Zach Cook, City Attorney said this is one of those situations where you can't write an ordinance to cover all of the possibilities. What I'm trying to do here is cover the basics. If there were a case where there was a rabid dog running around, in an extraordinary case I would hope, it would depend on the surrounding circumstances on what they would do. I wouldn't want the Animal Control officer to say oh, it's on private property so I'll just go on Monday morning to file a petition with the court. If it was that bad she can come immediately to City Hall and file a petition with the judge. There is private property

rights and the health, safety and welfare issue here. As I am proposing this that covers the concern about whether or not the Animal Control officer or any other Police officer can just go in and pick up a cat or a dog because it might not be wearing a tag. In violation the Animal Control officer or Police officer could go and petition the court if the animal or the owner has violated the ordinance and there is eminent threat. The court has to weigh in on this stuff. We can't just have the Animal Control officer or Police officers go in on private property.

Zach Cook, City Attorney said let me make an analogy off the top of my head. You have a crazed criminal on the street that poses an eminent threat. Typically he has rights not to be shot by a Police officer. But if the Police officer in his judgment shoots the criminal then the courts are going to weigh all of the circumstances because there is most likely going to be a wrongful death situation. The analogy isn't perfect but you see where I'm going and it's going to depend on the Animal Control officer or the Police officer's best judgment. You have to give them that discretion on a day-to-day basis.

Councilor Holman said let's take a less serious situation. You have a dog running at large and the Animal Control officer sees the dog and let's say it's running down the street, which is not private property, but everything else is private property pretty much. The dog leaves the street and goes on to a residence then leaves that residence and goes to the one next door. Then it cuts through the backyard into the next subdivision, all the while on private property. You don't even know if that dog is going to end up on his property because the Animal Control officer has no way to determine if the dog goes on private property if she can't check that tag in this case is what we're saying, they aren't going to know if they are on their own property or somebody else's. Further more I don't know how you would catch a dog running at large from one property to another. I wouldn't want to be an Animal Control officer going from one to another to another. The dog will just disappear after awhile. We have a lot of complaints about animals at large.

Zach Cook, City Attorney said if there was a dog running from house to house and we don't know who the dog belongs to but let's say it's cornered in a fence. Peggy or any Police officer could knock on the door and say I'm chasing this dog down and do you give me permission to go on your property and catch this dog? If they say no you have to get a court order. If they say yes then help yourself.

Councilor Holman said okay, most people work and are not going to be home. You knock on the door then what do you do? If you want the animals secured I don't think you're going to have very many. That would be a wonderful job to have because you would just drive around all day and say well the dog never got off private property. Another day, no catches, no arrests. To me that's almost having the criminal create a crime, say they robbed Circle K and they're running and they make it back to their house and the

Policeman sees where they go but the guy get's to his yard with the cash and he says I made it home. Now, does the policeman stop in the street and say well, one of these days he'll come out and I'll get him. Aren't we looking at the same type of situation? Make it back to my property and that negates violating that ordinance or the law.

Zach Cook, City Attorney said there is a lot more case law that has developed in that area than in Animal Control. Off the top of my head I would think that if the officer is in hot pursuit of somebody who he has probably cause to believe has committed a crime then under those circumstances can enter the home and apprehend the suspect. But, with a dog going door-to-door I don't think it's within the City's best interest to create a policy where they would have to go to court to get a court order before entering someone's private property unless the private property owner is right there and invites them onto the property to get the dog. If they say no you can't then the Animal Control officer would have to try and do whatever they do to try and get the dog.

Councilor Olivo said what about the suggestions that came on the list because of the red words have been crossed out in red. It shows the changes in the words that have been made. That's only to show us the changes that were been made and I'm pretty sure they're going to retype it.

Councilor Hood said in the past they've had legal documents that there weren't any cross outs on it.

Councilor Olivo said he's our attorney and he knows the law.

Zach Cook, City Attorney said ideally everybody would read this. We can't come into a public meeting and have a discussion and just expect that everybody is going to agree. If there is disagreement or changes that are made it's perfectly fine to suggest amendments at the time of the hearing and make strikes. Voting on it with these strikes and underlines and additions is fine because that is an indication of what the final product will look like.

Councilor Olivo said that is the impression I get from Mr. Hood that it is not legal. That's how come I referred to you being our attorney and you know more about the law than we do.

Zach Cook, City Attorney said on his suggestion for example it still would have to have been stricken out and put my words in.

Councilor Holman said what we are trying to do is to get a situation where we can keep our animals under control. I think most people are. However, I'm very suspicious of some of the agendas that have been presented. For instance the very first person has

written a letter objecting to the old ordinance was on the City Council for years and didn't have a problem with until now that person is not on the City Council. Now it has become a problem. Why wasn't it a problem then? I just think we have to be careful about what might be frivolous suggestions when you've had an ordinance that has worked for years and we haven't had any court cases where we've lost even though we've had too many in other areas. This has been a pretty good ordinance. I think we need to be careful what we're doing.

Mayor Armstrong said I agree.

Councilor Williams said it's unfortunate that people on this council do not have an open mind. Whatever suggestions were made whether I was the one making it or you were the one making it or anybody else, should be given thought and consideration for it. To arbitrarily shoot it down because you disagree with it or you don't like it that was the purpose of the work session was to have that type of communication. It did not exist. It's not my fault. I presented things out there in the open and we had the opportunity to talk about it, discuss it, and say I don't like it. But, no, you don't say anything about it. All of a sudden you don't want to do it, you want to stay the same, if it's not broken don't fix it. What kind of analogy is that? You have to update it. It's a 1993 ordinance mayor. There's nothing wrong with adding language to it that would make it a very well structured ordinance. Having a penalty phrase in there identifying if you were cited "x" amount of dollars. Having a patrol dog in there. Having striking by a vehicle. This is something we should all consider but you're not willing to do it. You just want to say I like it the way it is. Come on mayor, open your mind, councilors open your minds, be objective whether you like me or not I don't care but I present good argument. I am resentful that you arbitrarily shoot me down because you don't like what I present and that's not the way the system works.

Councilor Olivo said to Councilor Williams said he is going by what our attorney says over this council. He is the man of law and we pay him good money for legal advice.

Councilor Williams said what does that have to do with anything, about what?

Councilor Olivo said about the ordinance.

Councilor Williams said all he gave you was advice about the impounding of the dog. He didn't say anything else about the rest of the ordinance.

Councilor Olivo said about the whole ordinance. If you want to change things that's up to you.

Councilor Williams said it's not up to me it's up to us to make the changes

Councilor Olivo said I'm not going to argue.

Councilor Williams said oh, you're not going to argue because it's something you can't win.

Mayor Armstrong said Councilor Williams, please.

Councilor Williams said I would recommend that the motion be changed. We take this back out and discuss it, make up changes that's good enough for all of us to agree on. Be flexible. This is all about working for them. Giving them an opportunity to have something that we can enforce but yet they can use to live with and have their pet. I have a pet. We all have pets.

Mayor Armstrong said we all have pets. He said the rule on that, on the ordinance Carol is all four councilors have to approve it?

Carol Virden, City Clerk/Treasurer said no. A majority.

Mayor Armstrong said we have a motion and second and would you look for the amendment to the ordinance being as our attorney set forth.

Councilor Olivo said we will stand with the advice our attorney gave us on Article 9, 6-9-6 added to it.

Mayor Armstrong asked Councilor Holman if he would accept that? Didn't you second it?

Councilor Holman said I will.

Roll call votes: Councilor Olivo, Aye; Councilor Williams, Hell No; Councilor Holman, Aye; Councilor Hood, No Vote.

Carol Virden, City Clerk/Treasurer asked Councilor Hood if that was a nay?

Councilor Hood said no, no vote. I'm not voting on it.

Councilor Williams said to Councilor Hood you have to make a vote one way or another.

Carol Virden, City Clerk/Treasurer asked Councilor Hood if he was abstaining?

Councilor Hood said I'm not voting on it. I'm abstaining.

Carol Virden, City Clerk/Treasurer told Mayor Armstrong that he has two ayes, one nay, and one abstaining.

Mayor Armstrong said so how do we stand?

Carol Virden, City Clerk/Treasurer said it's not the majority. We have two ayes, one nay, and one abstaining.

Mayor Armstrong said so it failed?

Carol Virden, City Clerk/Treasurer said failed.

Mayor Armstrong said it failed so it looks like we have some more work to do.

Councilor Williams said my apologies for my language. It's uncharacteristic for me to do that in public and I apologize to the audience. I would like to ask the mayor what we do from now on? What is our next process? We don't want to go through another work session because that was not productive. So, what do you have in mind for us to do to be able to get an ordinance in place that we can all agree on that we can vote on and make ourselves happy and make our citizens happy?

Mayor Armstrong said my plan is for the councilors to meet with our attorney and go over their points. I don't know what else to do.

Zach Cook, City Attorney said I think that's a good point. He said to Councilor Williams that you and I had talked earlier and I would like to go over it specifically. You've got a lot of things to include or amend. I'm more than willing to sit down with each and every one. Obviously I can't work with one and then go to the next and get a rolling quorum or anything but if I can be an intermediary I don't know if we'll get everyone on board with the same thing and I can't work toward that goal because we're going to have to go through this process. If we have to get to it that's the way it goes.

Councilor Williams said all I'm asking is if this is presented to all the councilors to approach it with an open mind and be objective. If you don't like it then that's fine. I have no argument with that. All I want is to be able to say we took a shot at it and it didn't work and move on with something else.

Mayor Armstrong asked if we were going to be meeting with each councilor or are we going to be meeting with, it looks like we have pros and cons here, so I guess we meet with one councilor and another one here or what?

Mayor Armstrong said I have read the ordinance three times myself and I even worked on it. I'm willing for you to talk with the attorney but I think we need more in there other than these kinds of meetings.

Councilor Williams said what I'd like to do mayor, and I think the other councilors would agree that when we are presented with this document next time there will be no. . .

Carol Virden, City Clerk/Treasurer said if we are directed we will issue another Notice of Intent to the public for another Public Hearing. This ordinance has failed.

Councilor Williams said so does that mean that the original ordinance stands?

Carol Virden, City Clerk/Treasurer said the one adopted in 1993 with amendments done in 2003.

Councilor Williams said but are we willing to consider the additions in improving the ordinance and then bring it back for Public Hearing?

Mayor Armstrong said I think you could do that. I know that you've asked to have a meeting with Zach and I don't have a problem with it. I've been through it as much as you. I just happen to have a different opinion on it and if there are certain things we can correct on that then I'm not against it. If it failed then we'll visit about it later on.

Councilor Williams said I am willing to do anything to accomplish my task and my duty as a responsible council member to get something in writing for the citizens of this community and for us.

Zach Cook, City Attorney said Mr. Mayor I would like to comment that we aren't the only city that's had to deal with this Animal ordinance about that issue.

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 said on February 8th we had a response from the Citizen's Committee of Ruidoso Downs request that their questions be answered. We have some of them in writing and it will go to the Citizens Committee I guess. One of the questions was that our

mayor and all its councilors come to every meeting prepared. I cannot vouch for anyone else but I have read my packet three times and I'll just leave it at that. As a request for the gravel around our cluster mailboxes have been done. Cleatus has given us the written part on that. Problems caused by the cinder block that is written down. Contact with the Otis Elevator and the Hubbard Museum. That one we've looked at. That was an agreement that was done way back there so we are looking through the agreement to go for what the state law requires us to do and being an old elevator it may end up being a little bit more than once every month. We are working with that agreement. Better solutions for the corner of Highlands and Joe Welch. I believe that one will be handled whenever we do the paving, which is in the written part of this that I will supply to that committee. P & Z lack of specifications for footing on outdoor buildings. I think you have visited with Steve on this that we've always had specs for this. Code Enforcement laws need to apply to everyone in the City. I hope it does. I have visited with Steve and he says this is being done. I'm not sure why that was put in there. The maintenance barn and employee a monthly tool and supply purchases. Potholes need to be correctly filled. Proper supervision of employees by supervisors and directors. That's all written in the written statement. That answers our question that was from the Citizen's Committee. If you have any more questions on any of that feel free to bring it up.

Councilor Olivo said I got a call this morning at 7:00. She was stating and asking me why our Police Department apparently stopping Hispanics and then giving citations for a minor infraction and then that they were illegal and bring them to the court facilities.

Chief Ortiz said this is the first time I have been made aware of that Mr. Olivo. We are not into profiling any nationality. Our mission is for traffic law enforcement and other laws that are violated. If there is a situation where the violator, there is some question about their background as far as if there is a criminal history, then we will contact the appropriate agency whether it be NCIC or the Border Patrol and investigate it further. To my knowledge we are not in the business of stopping individuals just for the sake of their nationality and making an unlawful arrest.

Councilor Olivo said well I've heard rumors before. I don't go by rumors but Sunday afternoon about 5:00 in the afternoon I was coming through this intersection here going to see a friend of mine and the Border Patrol was picking up two people from the Police Department. Can you check into that and see what's going on because this was an ex city commissioner that called me this morning at 7:00 and I don't get up until 8:00. He's not the only one that's mentioned it to me. And me being Hispanic they come to me. But, that caught me off hand because I don't know if there's a law. I know in Arizona they do that. I don't know if New Mexico has a law that allows them to do that.

Chief Ortiz said we are not in the business of enforcing federal statute pertaining to immigration. Our traffic law enforcement and other criminal acts that are committed. I don't know what the particular circumstances were for that stop and why our patroller was involved but I will look into it.

Councilor Olivo said it was a mother and daughter. This wasn't here say. I saw it myself. I happened to be by there at the right time.

Councilor Holman said I received phone calls too and well, that rumor, there are accusations out there. I've heard it from people in person this past week and Chief I don't even think you were even aware it was out there so if you could find out if there was any basis. There may be and there may not be.

Councilor Williams said I would like to welcome everyone on Saturday to All American Park for the Great American Cleanup. It will be citywide and neighborhood wide for anyone that would like to come out and help cleanup. I think our parks people are going to cook hamburgers and hot dogs and we'll have prizes as long as the weather holds out.

Councilor Olivo said Greetree Solid Waste is going to have six containers at the old place here. If you have anything at home that you want to throw away you are welcome to bring it this coming Saturday. Don't go to the new location. Come to the old location.

Mayor Armstrong said I would like to remind everybody for the 2010 Census that needs to be done. It's a very important part of what we do here. It gives us the means to work with. If you know someone who hasn't filled it out please encourage them to fill it out. Right now it costs .24 to mail it right now. After a certain time in April it costs like \$150 to sign up one person because you have to have somebody hired that goes around and actually gets that number. So, if you know someone or the churches or whatever to try to get them. It's only ten questions and it doesn't matter who it is. They can be counted too and it means money to us here.

Councilor Olivo said Saturday we met in Ruidoso at the park up there and they had a little fair but not many people showed up. The secretary showed up and also the state treasurer was there and they were really glad that Ruidoso Downs was represented there. Finally the mayor from Ruidoso came over and that was it. There were two councilors and a mayor there but Ruidoso Downs was represented pretty good.

Councilor Holman said my comment on that even though the Census seems to be in real trouble as far as the count is not anywhere close to what they wanted to have. We were informed at that get together that Ruidoso Downs has the best percentage of our surrounding municipalities. So, even though our percentage is not good it's not that bad.

Mayor Armstrong said we want to get everyone counted.

Mayor Armstrong said there is another thing. The Notice of 2010 Community Development Council Allocation meeting. That will be Wednesday, April 21st in Albuquerque.

Mayor Armstrong stated next item on the agenda was-Proclaiming April 16th as Golden Apple Foundation of New Mexico Tribute to Teacher Excellence Day. Mayor Armstrong read the Proclamation.

Mayor Armstrong stated next item on the agenda was Proclaiming April 2010 as Fair Housing Month. Mayor Armstrong read the Proclamation.

Carol Virden, City Clerk/Treasurer said the proclamation was one out of four other documents that are required under the Community Development Block Grant Program. We will be presenting the governing body in the future with the Section III, the Citizen's Participation, Residential Anti-Displacement Plan, we'll have to readopt those for future CDBG grants as well as the Fair Housing Plan or ordinance that is on the books for the City of Ruidoso Downs.

Mayor Armstrong stated next item on the agenda was Certificate of Destruction-Marked Paper Ballots March 2, 2010 Municipal Elections Pursuant to 3-8-62 of the Election Handbook of the State of New Mexico 2009 Edition (Information Only).

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was New Business-Consider Approving 2008-2009 Fiscal Year Expenditure-Lincoln County Medical Center in the amount of \$80.00-LCT Department.

Terri Mosley, Finance Director said there was a little confusion with the drug test that we had to do on two employees because of an accident. It was thought early on that it was supposed to be paid by New Mexico DOT. We found out since then that since there were no injuries that the City would be responsible for that. We are requesting that you approve the \$80.00 and after we make that payment we will receive the 80% reimbursement from the Department of Transportation.

Councilor Olivo said that is for the transit driver's right?

Terri Mosley, Finance Director said that's correct.

Mayor Armstrong entertained a motion to approve 2008-2009 Fiscal year Expenditure-Lincoln County Medical Center in the amount of \$80.00-LC Transit Department.

Councilor Olivo moved to approve 2008-2009 Fiscal year Expenditure-Lincoln County Medical Center in the amount of \$80.00-LC Transit Department. Seconded by Councilor Williams.

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 Consider Approving Request by Betty Foster for Use of All American Park for Second Annual Scarecrow Arts & Crafts Festival September 3rd through September 5, 2010.

Steve Dunigan, Planning & Zoning Director said last year the Scarecrow Arts & Crafts Festival was permitted by the City of Ruidoso Downs to utilize All American Park. They set up in a specific location that seemed to go pretty well and again is requesting consideration by the City to approve the Second Annual Scarecrow Arts & Crafts Festival on September 3 through 5 but in a different location. Their request is to set up near the Senior Center. We have verified with the County of Lincoln that the use of the building will not be an issue. Ms. Betty Foster has provided a plan of how they would set up the facility including porta-potties, traffic, and where the booths would sit. My biggest concern would be not blocking off the use of the park by other citizens and not creating any bottlenecks for emergency vehicles. We are going to place fairly strict requirements that they provide parking guides for both days so there is a place for emergency vehicles. She would be paying a fee similar to last year and providing insurance, as it gets closer to that date. She is simply awaiting approval from the City to pass that on to the vendors at this point. I'm satisfied that they will set up a very nice show. It will be an attraction for our City at that time of the year and bring in some revenues as well as visitors and I'm pretty with what they've done for us so far.

Councilor Olivo asked why we have to get permission from the County to use our park?

Steve Dunigan said we don't need permission from the County.

Councilor Olivo said according to your letter it does.

Steve Dunigan said not my letter. This is back from Mr. Stewart.

Councilor Olivo said you requested permission to use the park

Steve Dunigan said no sir. The guidance that I was given was to make sure that there was no problem with the County allowing the use of the area around the building and this is our park and we're not asking permission from the County to use the park but that we are just making sure that the use of that outside area would not interfere with anything they want. We try to continue a working relationship with the County but we don't need their permission to use All American Park.

Councilor Olivo asked what time is Betty going to start because this will be on a Friday right?

Steve Dunigan said Friday and Saturday.

Councilor Olivo asked what time it will start?

Steve Dunigan said the vendors would probably be there on Thursday late afternoon.

Councilor Olivo said when he was with the Auxiliary they would start about 4:00 on Friday and that wouldn't interfere with the Senior Citizens building.

Carol Virden, City Clerk/Treasurer said the letter was not written to County Manager Tom Stewart requesting permission to use All American Park. The letter states that Mrs. Foster will assure the County that she will not use any of the Senior Citizens building utilities and the event will not interfere with the operations of Senior Citizens on September 3rd, which is a Friday.

Councilor Olivo said well, the way I'm reading it is we have to get permission from the County.

Carol Virden, City Clerk/Treasurer said no.

Mayor Armstrong entertained a motion to approve Request by Betty Foster for Use of All American park for Second Annual Scarecrow Arts & Crafts Festival September 3rd through September 5, 2010.

Councilor Olivo moved to approve Request by Betty Foster for Use of All American park for Second Annual Scarecrow Arts & Crafts Festival September 3rd through September 5, 2010. 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 Consider Approving Wastewater Treatment Plant Operating Invoice for January and February 2010.

Terri Mosley, Finance Director said I've gone over both of the monthly invoices and they seem to be correct. There is some additional documentation in January bill as they had to do some repairs on the Brown Bear piece of equipment so they didn't include that but it is part of the operations.

Mayor Armstrong asked why do we have two months here?

Terri Mosley, Finance Director said I received these both the same day. I think some of it was getting the new Finance Director on board over there.

Mayor Armstrong entertained a motion to approve Wastewater Treatment Plant Operating Invoice for January and February 2010.

Councilor Williams moved to approve Wastewater Treatment Plant Operating Invoice for January and February 2010. Seconded by Councilor Olivo.

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 Consider approving Mayor's Appointment to Lodgers' Tax Committee.

Mayor Armstrong entertained a motion to approve Mayor's Appointment to Lodgers' Tax Committee.

Councilor Williams moved to approve Mayor's Appointment to Lodgers' Tax Committee with the two names stated. Seconded by Councilor Olivo.

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.

Bonnie Richardson said I wanted to give you a report on your homegrown gymnastics group. Just this past weekend New Mexico had the privilege of hosting the Region IX Championship Gymnastics Meet for seven states. This is an annual thing and this year Ruidoso Downs, because we've had two girls that were competing in the women's division and five boys competing in the men's competition and because New Mexico is hosting this it costs a great deal of money to put this on. It was hosted in Rio Rancho so I asked our administration if they would help with the advertising of this event. They took out a half-page for \$250.00, which was pretty, much our Ruidoso Downs logo. It said Good Luck Harley and Amanda with our two girls that competed. I am very pleased to announce that for the first time ever Amanda brought home the All Around Championship for the girls in her age group. Kind of to put the frosting on the cake our group represents the smallest population area and this coach from Albuquerque came over and told our girls head coach that she had represented New Mexico very well. I feel when our group goes to other schools they are representing Ruidoso, Ruidoso Downs, Lincoln County and all of New Mexico and so when Amanda won the All Around Championship she was representing Ruidoso Downs and New Mexico very well. Now she will go to Boise City, Iowa either May 5th or 8th to compete in the National Championship. We thank you very much for supporting our children.

There was a round of applause.

Councilor Olivo asked if we can have them come before the council and give them something in appreciation.

Mayor Armstrong said we'll check into and see. I'm not sure what we can do.

Joyce Gustafson said due to having been out of town I've missed the past few council meetings. Having read over the minutes from the prior meetings I saw where Mr. van Gulick and the Economic Development Board which was requesting our City to fund the Hubbard Museum of the American West in the upcoming budget for the fiscal year 2010-2011. I say that is fine if the museum can operate on a budget that does not include \$100,000 out of our City's General Fund and thousands more from our Lodgers' Tax. Try cutting the days of operation at the museum from seven to four. Cities all over our state and nation are having to cut back on their museum costs in order to survive under this bad economy. Even if our state gets lucky and gets more federal funding for the museums that doesn't mean we need the Hubbard Museum open seven days a week. Why doesn't someone in our City government try using some common sense when it comes to spending the taxpayer's dollars? Seems all you know how to do Mr. Armstrong, Mayor Armstrong, is to continue the footsteps of the past administration. The people that voted for you are still waiting for all the changes that you campaigned on two years ago. Rewrite this contract or better yet give the museum and what's left of his money back to

R.D. Hubbard. Why do we think he was so willing to get rid of the museum? Mr. Hubbard is a smart businessman and knows when to dump something that loses money. We wish we had someone with his business sense around when our city government voted to take over this losing business back in 2005 instead of trying to pave our streets and clean up our town. If any of you can show me in black and white where this museum is making money or bringing in new business for the City of Ruidoso Downs I'm more than willing to look and listen. Please show me I'm wrong.

Joyce Gustafson said Mr. Mayor, the letter that Tom Stewart wrote and sent back that's in the minutes to Mr. Dunigan, it pretty well looks to me like that Mr. Dunigan and the City was asking Tom Stewart for permission for the us for the lady to use All American Park and that's sad. That contract between Lincoln County and the City of Ruidoso Downs for the Senior Center needs to be rewritten. It's appalling that our citizens and our taxpayers that the County has use of that building and we can't use any space of that building at anytime. So why couldn't the County not pay either more for the building so that we can build another building that can be a community center or the City rewrite that contract so that the County can use it for a Senior Center.

Wayne Williams said I represent the Citizens Committee of Ruidoso Downs. I bring before you tonight a list of suggestions and concerns from our last meeting of April 10th that we would like our City government to address in the future or be considered. I would like to thank you at this time for the response you made from our last presentation of concerns. We would appreciate your response to these concerns on April 26, 2010 City Council meeting. Please put the items on the agenda for that day.

(the request were as follows)

1. Construction of a gate at the entrance to Riverside Park. Residents living across the river are concerned with the late night traffic and also the extra traffic connected with the bike rally and horse racing.
2. Concern over wasteful spending for workshops that the City mayor should have never allowed to take place. We, the Citizens Committee hold the mayor Tom Armstrong totally responsible for the couple of thousand dollars for the workshop held on April 1, 2010 that it cost the taxpayers of Ruidoso Downs. Please try to think before you hold another unnecessary workshop.
3. We would like to have one or two citizens of Ruidoso Downs appointed by the mayor to serve on the budget board for the upcoming fiscal year with one of those residents having some accounting knowledge. These residents would only be serving as an advisory position and not a position for the residents of Ruidoso Downs. This concerns the reduction in gross receipts tax from this time last year.

4. Reducing City expenditures in the following areas for the fiscal year 2010-2011 as follows: a) days of operation for the Hubbard Museum of the American West thus reducing the dollar cost to operate b) a freeze on all City employees wages, salaries for fiscal year 2010-2011

Wayne Williams said we would at this time ask our governing body as a whole for their response to our list of concerns presented to them on February 8 2010. Thank you, CCORD.

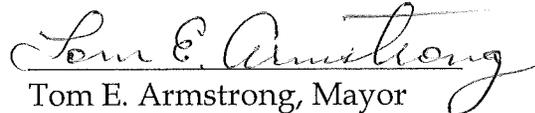
Wayne Williams said our next Citizens Committee will be coming but I don't know right off hand but all citizens of the City of Ruidoso Downs with the exception of elected officials are welcome to come to our meeting.

ADJOURNMENT

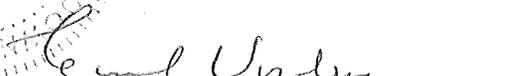
They're being no further business to attend to Mayor Armstrong entertained a motion to adjourn.

Councilor Hood moved to adjourn at 6:59 p.m. Seconded by Councilor Williams.

All were in favor and motion passed.


Tom E. Armstrong, Mayor

ATTEST:


Carol Virden, City Clerk/Treasurer