

MINUTES OF THE CITY COUNCIL
OF THE CITY OF RUIDOSO DOWNS
CITY COUNCIL CHAMBERS
REGULAR MEETING
APRIL 26, 2010
5:30 P.M.

The Council of the City of Ruidoso Downs met in regular session on April 26, 2010. Mayor Armstrong called the meeting to order at 5:30 p.m. and asked Chief Ortiz 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
Jay Smith, Museum 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 Williams.

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 with removing one of the Committee Reports. Seconded by Councilor Olivo.

Councilor Williams said he had a brief report on the Beautification Committee. He said he would like to thank all of the citizens that came out last Saturday for the cleanup that was on and off and then on again. It was a success story despite the weather. There was quite a bit of cleanup along the highway and work being done on the streets. He said also the Easter Egg Hunt that was held earlier this month went real well. There were approximately 250 kids and the park was packed. He said he would like to thank the city for the support of this committee and the citizens and he thought the city was starting to show results.

Mayor Armstrong said he would like to thank the joint effort of the two committees that were there to pull these two events off and that it went off very well.

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

APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 12, 2010.

Motion was made by Councilor Williams to approve the Minutes of Regular Meeting of April 12, 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 Williams and seconded by Councilor Olivo to approve Accounts Payables.

APPROVAL OF MONTHLY REPORTS

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

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

COMMITTEE REPORTS

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

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

PUBLIC HEARING ORDINANCE NUMBERS 2010-04

Mayor Armstrong said the first ordinance was:

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF RUIDOSO DOWNS, LINCOLN COUNTY, NEW MEXICO, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

Carol Virden, City Clerk/Treasurer said the Notice of Intent to adopt Ordinance 2010-04 was published in the Ruidoso News on Wednesday, April 7, 2010. If some of you councilors remember the Codification of the City of Ruidoso Downs Code of Ordinances was a long process. We have finally gotten the completed Codified Ordinances in a book form and also on a CD. Any ordinances that the City has adopted since the codification of the City of Ruidoso Downs ordinances will be sent to American Legal for supplement and will be inserted into the binder itself.

Mayor Armstrong said I hereby open the Public Hearing for comments and will 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 present 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 present to speak in support of the action.

Mayor Armstrong said he hereby closed the Public Hearing on Ordinance No. 2010-04.

Mayor Armstrong entertained a motion to adopt Ordinance No. 2010-04.

Councilor Hood moved to adopt Ordinance No. 2010-04. Seconded by Councilor Williams.

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.

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 was 2010 Community Development Block Grant (CDBG) Allocation of Funds-City of Ruidoso Downs-Street/Drainage Project.

Carol Virden, City Clerk/Treasurer said she and Cleatus attended the Public Hearing in the latter part of March to present our CDBG grant. There was a meeting of the allocations last week. She said she is positive now that the City of Ruidoso Downs has received for the 2010 CDBG in the amount of \$472,898 for River Lane and North Central for curb, gutter, and drainage projects. The grant agreement will be mailed here in a couple of weeks. Frank Padilla, Executive Director for the Housing and Urban Development has presented the Council of Governments a check in the amount of \$15,500,000.00 so DFA does have the money available.

Councilor Holman said the State of New Mexico is really in bad shape financially so I would assume there was a lot of competition for the money and there is very little money out there.

Carol Virden, City Clerk/Treasurer said there were 35 entities that made application for the 2010. Each of the 35 communities did receive either full funding or their face amount that they requested. She said she believes there was seventy-five cents left out of that \$15,500,000.00. They all did very well.

Mayor Armstrong said the next item is the Wastewater Treatment Plant Investment for the equipment.

Carol Virden, City Clerk/Treasurer said she was proud to announce because this has been an ongoing effort for the City of Ruidoso Downs since 2008 when they initiated the Investment Summary for the Economic Development Administration Grant along with the Wastewater Treatment Plant. We did get notice from Senator Bingaman's office as well as

Tom Udall's office that the City of Ruidoso Downs and the Village of Ruidoso received \$2.9 million to be used for equipment purchase for the Wastewater Treatment Plant.

Mayor Armstrong said he would give an update for the JUB reaffirming the chairperson. The chairperson is myself. Ruidoso's mayor stays as the vice-chair and Irma Devine is the clerk. We had originally done this a month ago but also in that meeting had agreed for the JUB to do their own budget that we will be involved with which is good. It's been a long time since they've had their own budget and I think this is a great thing. Another thing was there was a million dollars to be spent on the river to clean it up and make it better and more usable. Our attorney's along with the attorney for the JUB and with Mr. Sugarman, they are all going to meet with that committee and try to push to push that forward. The City of Ruidoso Downs had turned in an application for our part of the river cleanup project and Ruidoso has projects they want to get done. We turned ours in last May and they have not made a decision on it so we are trying to get them to make their decision.

Mayor Armstrong said we have Sandy Aguilar and Kathy Alexander here with the Chamber of Commerce here tonight.

Sandy Aguilar said there are two events they are going to talk about and the first one will be by Kathy Alexander, Special Events Coordinator.

Kathy Alexander said two weeks ago she met with Chief Ortiz to explain what was planned at the track and he suggested she meet with the council to give the details. It is June 19th and they are partnering with the racetrack and they are going to fill the area with vendors and she pointed those areas out on a map that she provided to the councilors. They are calling it the Summer Celebration and they are going to have live music and local bands playing all day. She said she has lined up tethered hot air balloon rides, camel rides, a car show, artists, chocolate covered bacon, pickle pops and just a lot of crazy fun things you normally don't see. She said it is a fundraiser for the Chamber and that night they have an annual banquet for their members and it will be at the Turf Club with a big show. She said they would like to extend an invitation to all of them and hope they will come to the banquet. It will begin at 7:00 on the 19th.

Sandy Aguilar said the second event is about the Lincoln County Renewable Energy Conference on May 25th at the Ruidoso Convention Center. It is a coalition of organizations that have come together to offer an incredible conference about renewable energy. Not only will there be vendors there but they will be offering products and services whether it be solar panels or wind turbines and there will also be educational seminars. It is up to us, you and I to inform the public whether you own a business that might be green or not green. We have quite a few businesses that currently offer products

and services but more importantly we have a potential to offer a lot more. We have the land, wind, sun, and the geothermal, biomass and Lincoln County is set perfectly for this conference. She said Carol Virden will have the invitations for the event. This is also free to the public.

Councilor Holman said he met Butch Blazer of the State Forestry in the past and he is a neat individual and would be looking forward to seeing him.

Jay Smith, Museum Director asked if he could speak and said he just had a piece of information and would read this and make it very brief.

Jay Smith, Museum Director read as follows:

Pursuant to Section 905 of the City of Ruidoso Downs Personnel Policy I hereby submit my resignation as Director of the Hubbard Museum of the American West effective July 30, 2010 to pursue new opportunities that will allow me to fulfill personal and professional goals. I will miss my friends around the state, especially those around Lincoln County who have dedicated themselves to advancing the tourism industry and preserving the history and culture of this area. It has been a pleasure to work with the staff at the Hubbard Museum of the American West. They are among the most talented group of professionals serving any museum in the State of New Mexico.

With Respect, Jay Smith.

NEW BUSINESS

Mayor Armstrong stated next item on the agenda was New Business-Consider Approving Resolution No. 2010-02 Citizens Participation Plan.

Carol Virden, City Clerk/Treasurer said Resolution No. 2010-02 Citizens Participation Plan is a plan that is required under the Community Development Block Grant. This says we will notify the public of any issues that come before the city council dealing with the Community Development Block Grant and also issue the notice to the press. We will maintain a list of all groups and representatives from low and moderate income and do a mailing list as well. We do that with our quarterly meeting anyway. This is just one document required and mandated under the CDBG manual.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-02 Citizens Participation Plan.

Councilor Hood moved to approve Resolution No. 2010-02 Citizens Participation Plan. 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 Resolution No. 2010-03 Fair Housing Plan.

Carol Virden, City Clerk/Treasurer said Resolution No. 2010-03 Fair Housing Plan is another requirement under the Community Development Block Grant.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-03 Fair Housing Plan.

Councilor Olivo moved to approve Resolution No. 2010-03 Fair Housing Plan. Seconded by Councilor Williams.

Councilor Williams said he inquired about some of the language in here about 'chief executive official' identifies in definition as you because you are the highest elected position. He said his question was brought to the legal department concerning subpoenas. "The chief elected official shall grant a petition if they file a subpoena required appearance." Also, you can administer oaths. He said he was not too sure about the legality of that being done so he wanted to get clarification.

Zach Cook, City Attorney said if was his understanding that this is something that is done when they receive CDBG grant money so this is just boilerplate language from them. This comes from them and the mayor can do this. If the mayor issued a subpoena and the person who was served with this subpoena wanted to file a motion to quash it they could do that. The short answer is yes it is legal. If you don't feel comfortable with it you could always make a motion to strike certain language. He said he didn't know how that would affect things.

Councilor Williams said that was it, he didn't know how it would affect approving the Fair Housing Plan by changing language and affecting the grant itself.

Zach Cook said you could the council could move to replace the chief elected official in this document.

Carol Virden, City Clerk/Treasurer said on page 9 under Section 2, the definitions, it does have under Section 2 the chief elected official means the person who holds the highest

elected position of the local unit of government and who is the signatory to the small cities Community Development Block Grant agreement with the Local Government Division. That is Mayor Tom Armstrong so that would have to remain.

Councilor Holman said Councilor Williams brings out some good points because in reading through some of these resolutions you almost need an attorney sitting next to you to explain some of the things going on. He said he assumed it had to do with the CDBG grant and that it was a requirement. He said he noticed the strange wording in these resolutions. In the Citizens Participation Plan it stated that, "special emphasis would be placed on moderate to low income citizens." He said he always has a problem when you single anyone out.

Carol Virden, City Clerk/Treasurer said the Citizens Participation Plan, Fair Housing Plan, Residential Anti-Displacement & Relocation Assistance Plan, Section 3 Plan and the readoption of Resolution 2007-10 regarding the Procurement Process are all mandated. She said the City of Ruidoso Downs qualified to apply for 2010 Community Development Block Grant because of the low and moderate income because they are 54% LMI.

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 Resolution No. 2010-04 Residential Anti-Displacement & Relocation Assistance Plan.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-04 Residential Anti-Displacement & Relocation Assistance Plan.

Councilor Williams moved to approve Resolution No. 2010-04 Residential Anti-Displacement & Relocation Assistance Plan. Seconded by Councilor Hood.

Councilor Holman said on this type of thing he was kind of worried about the wording. For instance in the paragraph immediately following crime and certification, when he read that and it said "the City of Ruidoso Downs herewith certifies that it replaced all occupied and vacant occupiable low to moderate income dwelling units, demolished or converted to a use other than low to moderate income housing." That puts the City responsible even if it's private property.

Carol Virden, City Clerk/Treasurer said the City has under several other projects has had to displace and relocate some families because of projects and so it is our responsibility that we are going to place them somewhere safe and have the availability of all the services that we provide.

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 Resolution No. 2010-05 Section 3 Plan.

Carol Virden, City Clerk/Treasurer said this resolution is for the compliance of all contractors that they will hire low to moderate income. Cleatus Richards, Public Works Director will be the Section 3 coordinator to advise and assist the key personnel and staff to serve as focal point of Section 3 compliance. He will also serve as the on-site monitor applying to contractors and sub-contractors to ensure that they implement and enforce the Section 3 Plan.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-05 Section 3 Plan.

Councilor Williams moved to approve Resolution No. 2010-05 Section 3 Plan. Seconded by Councilor Hood.

Councilor Williams referred to page 3 and said he wanted the name of Cleatus Richards, Public Works Director as Compliance Officer placed in the document.

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 Re-Adopting Resolution No. 2007-10 Adopting Regulations Regarding the Procurement Process of the Municipality Pursuant to the Requirements of the Procurement Code (Being Sections 13-1-28 to 13-1-199 NMSA 1978 As Amended) and Public Works Contracts (Being Sections 13-4-1 to 13-4-42 NMSA 1978 As Amended).

Mayor Armstrong entertained a motion to re-adopt Resolution No. 2007-10 Adopting Regulations Regarding the Procurement process of the Municipality Pursuant to the Requirements of the Procurement Code (Being Sections 13-1-28 to 13-1-199 NMSA 1978 As Amended) and Public Works Contracts (Being Sections 13-4-1 to 13-4-42 NMSA 1978 As Amended).

Councilor Williams moved to re-adopt Resolution No. 2007-10 Adopting Regulations Regarding the Procurement process of the Municipality Pursuant to the Requirements of the Procurement Code (Being Sections 13-1-28 to 13-1-199 NMSA 1978 As Amended) and

Public Works Contracts (Being Sections 13-4-1 to 13-4-42 NMSA 1978 As Amended).
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 Resolution
No. 2010-06 New Mexico Recreational Trails Program

Cleatus Richards, Public Works Director said this resolution would approve the filing of a
grant application for the trails program requesting two of the \$39,007 from the grant
program and matching that with approximately \$60,000 in both the funds. The trail
improvements that we are requesting funds for are for about 1/3 walking trail on the entry
drive, parking areas, restrooms, sewer line extension, electric line extension, three park
pavilions, and they also have to place signage as required under the grant regulations. He
said most of our funds will come from either force account work, which we will provide
with Public Work staff or we will draw from the River Restoration projects funds because
this is to fund or share the \$150,000 under the River Restoration Act.

Mayor Armstrong read in full Resolution No. 2010-06 New Mexico Recreational Trails
Program.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-06 New Mexico
Recreational Trails Program.

Councilor Olivo moved to approve Resolution No. 2010-06 New Mexico Recreational
Trails Program. Seconded by Councilor Holman.

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 Resolution
No. 2010-07 in support of the Activity Funds for the Ruidoso Downs Senior Citizens
Center.

Mayor Armstrong entertained a motion to approve Resolution No. 2010-07 in support of
the Activity Funds for the Ruidoso Downs Senior Citizens Center.

Councilor Williams moved to approve Resolution No. 2010-07 in support of the Activity
Funds for the Ruidoso Downs Senior Citizens Center. 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 Agreement between the Village of Ruidoso and the City of Ruidoso Downs for Public Safety Answering Point Dispatch.

Chief Ortiz said this agreement was drawn last year between the Village of Ruidoso and the City of Ruidoso Downs. The agreement was to allow the Village of Ruidoso to transmit all of our 911 calls and send them to our dispatch center. That amount that was agreed upon will be the same. Some new technology that will be in place is a GPS system that will allow for global positioning as well as GIS. The agreement is in the amount of \$24,000.00.

Mayor Armstrong entertained a motion to approve the agreement between the Village of Ruidoso and the City of Ruidoso Downs for Public Safety Answering Point Dispatch.

Councilor Hood moved to approve the agreement between the Village of Ruidoso and the City of Ruidoso Downs for Public Safety Answering Point Dispatch. Seconded by Councilor Holman.

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 Rental Policy for the Hubbard Museum of the American West.

Jay Smith, Museum Director said they talked a little about this back in February but with improvements that have been made they had decided to review and talk again about the policy. The policy is very similar to previous policies. Some of the charges were raised a little bit to reflect the new technology. There are a couple of small changes that were brought to his attention this morning by Councilor Williams that need to be made in Section 2 under "Special Circumstance Usage Fees" and that governing body needs to be capitalized. In Section 15 "Protection of Artifacts and Collections" it states that all animals with the exception of guide dogs used by the visually impaired are not allowed in the museum. He said that should be changed to all animals except guide dogs used by physically challenged persons as defined by Americans With Disabilities Act of the laws of the State of New Mexico will not be allowed in the museum. One change he wanted to bring to their attention was the "Special Circumstance Usage Fees" and that the museum can host City of Ruidoso Downs sanctioned events related to the election. That they would get out of and stay out of the business of hosting individual rallies for those

running for office in Ruidoso Downs, Ruidoso, and Lincoln County to avoid the appearance of support for one particular candidate over another.

Councilor Holman said under "Special Circumstance Usage Fees" that the event must be scheduled at least 4 weeks in advance.

Jay Smith said they try to get as much forward notice as possible and especially now that they are using the Cope Center on a daily basis.

Councilor Holman said the second part of that sentence says, "and must be approve by the Ruidoso Downs governing body."

Jay Smith said with the help of Jim Kofakis did not feel that the museum should be the one's to decide if an event is sanctioned by the government or not just in case there is a question about it.

Councilor Holman said in the second paragraph it states, "fees for groups partnering with the Hubbard Museum" and that the fees may be waived at the discretion of the Museum Director and they left out pending the approval of city council.

Jay Smith said he basically didn't think it was worth the time to bother them with that and these weren't major events. He said it would be like working with Fort Stanton for a brief meeting and like that on a project and would be a quick meeting. He said they also follow the guidelines of the anti-donation clause in the instances.

Mayor Armstrong entertained a motion to approve Rental Policy for the Hubbard Museum of the American West.

Councilor Olivo moved to approve the Rental Policy for the Hubbard Museum of the American West. Seconded by Councilor Williams.

Councilor Holman said he was not familiar with the schedule of the old policy and Jay had mentioned it was similar but not exact. He said his preference would be to table this until possibly the next meeting. He said he would like more time to compare the old with the new.

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

Mayor Armstrong stated next item on the agenda was Consider Approving Wastewater Treatment Plant Operating Invoice for March 2010.

Terri Mosley, Finance Director said she had checked with this and verified the numbers and it all seems to be correct.

Mayor Armstrong entertained a motion to approve the Wastewater Treatment Plant Operating Invoice for March 2010.

Councilor Hood moved to approve the Wastewater Treatment Plant Operating Invoice for March 2010. Seconded by Councilor Holman.

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.

Jim Kofakis said he works at the museum and he was probably as shocked as anybody about Jay's resignation. He said he must have talked to him about 50 times today and didn't know it was coming. For the record, in the 35 years he's been out of college he's had lots of bosses and lots of supervisors and Jay is the most loyal, hard-working and dedicated boss he has ever had. He will be missed and they will all see that. He said he would like to thank Jay personally for the four years he has been with him.

Mayor Armstrong said he thinks they are all in on that one.

Councilor Hood said he wanted to thank Jay for all of the good times.

ADJOURNMENT

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

Councilor Williams moved to adjourn at 6:24 p.m. Seconded by Councilor Hood.

All were in favor and motion passed.



Tom E. Armstrong
Tom E. Armstrong, Mayor

Carol Virden

Carol Virden, City Clerk/Treasurer